

Commission Meeting Agenda

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Location of Meeting:

Marcus Whitman Hotel & Convention Center
6 West Rose Street
Walla Walla, WA 99362
(509) 525-2200

Date and Time of Meeting:

Thursday, June 15, 2006
1:30 p.m.

Informal Study Group Sessions:

10:00 a.m. – 11:00 a.m. Charitable Nonprofit Study Session
11:00 a.m. – Noon Commercial Operators Study Session

Staff Recognition: Special Agent Mark Richart – 5 year Service Award

Public Meeting:

Please note agenda items after 1:30 p.m. may be taken out of sequence at the discretion of the Chair.

1. Agenda Review / Director's Report:

Administrative Issues:

- a) Employee Survey
- b) 2007 Agency Request Legislation **Amy Hunter, Administrator**
- c) Correspondence
 - ZDI Gaming, Inc., Initial Declaratory Order
 - Letter to the Editor Response on Internet Gambling – King County Journal
 - Magic Distributing, Inc., Petition to Governor Regarding WAC 230-12-330
 - City of La Center Correspondence – Cowlitz Tribe Request for Trust Land Acquisition
 - Match Play Summary – Staff Research
- d) Monthly Update Reports:
 - Administrative Case Update
 - Seizure Update
 - Congressional Update
- e) News Articles
- f) Presentation:
 - Multiple House-Banked Card Room Ownership Update **Dave Trujillo, Assistant Director**

Comments from the Public

Please turn telephones and pagers off during meeting sessions

2. **New Licenses and Tribal Certifications:**

3. **Petition for Review:**

- a) Sharkey's Sport Bar & Grill, Mountlake Terrace 3:00 p.m.
- b) Tin H. Chau, Bow 3:30 p.m.

4. **Defaults:**

Amy Hunter, Administrator

- a) Northwest Game Service, Service Supplier, Browns Point - Revocation
- b) Jenni Schaefer, Card Room Employee, Lacey - Revocation
- c) Jason A. Miller, Card Room Employee, East Wenatchee – Revocation
- d) Nga T. Tran, Card Room Employee, Renton - Revocation

5. **Request for Summary Suspension:**

- a) Adam T. Froese, Card Room Employee, Spokane
- b) Brian Dunn, Card Room Employee, Pullman

6. **Other Business/General Discussion/Comments from the Public**

**Executive Session to Discuss Pending Investigations, Tribal Negotiations & Litigation;
and Adjournment**

Upon advance request, the Commission will pursue reasonable accommodations to enable persons with disabilities to attend Commission meetings. Questions or comments pertaining to the agenda and requests for special accommodations should be directed to Shirley Corbett, Executive Assistant at (360) 486-3447 or TDD (360) 486-3637. Questions or comments pertaining to rule changes should be directed to Susan Arland, Rules Coordinator and Public Information Officer at (360) 486-3466.

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Location of Meeting:

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Walla Walla, WA 99362
(509) 525-2200

Date and Time of Meeting:

Friday, June 16, 2006
9:30 a.m.

7. **Approval of Minutes:** Regular Meeting, April 13 & 14, 2006

Rules Up for Final Action

8. **License Fees for Military Personnel**

Dave Trujillo, Assistant Director

Filed 01/11/06 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #06-03-054.

Filed 03-22-06 as a Proposed Rule Making (CR-102) under WSR #06-08-101 with a published date 04-19-06.

- a) **Amendatory Section WAC 230-04-204**

Fees – Individuals.

- b) **Companion Rules Simplification Project Rule**

Amendatory Section WAC 230-05-035

Individual license fees.

This Companion Rule was previously adopted, but won't become effective until 01-01-08.

9. **Rules Simplification Project**

Beth Heston, Project Manager

Filed 06/07/05 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #05-13-042.

Filed 03-22-06 as a Proposed Rule Making (CR-102) under WSR #06-07-156 with a published date 04-05-06.

- a) **Chapter 230-06** – Rules for all Licensees.

Chapter 230-06 won't become effective until 01-01-08.

10. **Gambling Devices at Trade Shows**

Dave Trujillo, Assistant Director

Filed 09/20/05 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #05-19-129.

Filed 03-17-06 as a Proposed Rule Making (CR-102) under WSR #06-07-112 with a published date 04-05-06.

- a) **New WAC 230-12-337**

Manufacturers and distributors transporting and displaying gambling devices – Trade shows and conventions.

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Rules Up for Discussion

11. Petition for Rule Change – Card Room Employee Administrator

Amy Hunter,

Card Room Employees Playing in Player-Supported Jackpots

Filed 03-09-06 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #06-07-050.

Filed 04-26-06 as a Proposed Rule Making (CR-102) under WSR #06-10-027 with a published date 05-17-06.

a) Amendatory Section WAC 230-40-610

Player-supported jackpots – Restrictions – Manner of conducting – Approval.

12. Petition for Rule Change – GameTech Inc.

Amy Hunter, Administrator

Electronic Bingo Card Daubers Billings Based on Cards Sold

Filed 02-13-06 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #06-05-054.

Filed 04-21-06 as a Proposed Rule Making (CR-102) under WSR #06-10-011 with a published date 05-17-06.

a) Amendatory Section WAC 230-12-340

Sale of gambling equipment, devices, supplies, paraphernalia, and related supplies –
Authorized transactions.

b) Amendatory Section WAC 230-20-244

Electronic bingo card daubers – Definition – Operation restrictions – Standards.

13. Allowing Credit between Operators and Manufacturers/Distributors

Filed 01-11-06 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #06-03-055.

Filed 04-26-06 as a Proposed Rule Making (CR-102) under WSR #06-10-012 with a published date 05-17-06.

Amy Hunter, Administrator

a) Repealed Section WAC 230-12-340

Sale of gambling equipment, devices, supplies, paraphernalia, and related supplies –
Authorized transactions.

b) Repealed Section WAC 230-12-350

Use of checks and credit cards to purchase gambling equipment, products, and services –
Restrictions.

Rules Up for Discussion and Possible Filing

14. Petition for Rule Change – Don Logerwell, Logo Chips and Cards

Filed 05-04-06 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #06-11-006.

Amy Hunter, Administrator

a) Amendatory Section WAC 230-02-412

Gambling equipment defined.

15. Petition for Rule Change–ZDI Gaming, Inc., Cash Cards - Amy Hunter, Administrator

Filed 05-17-06 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #06-11-095.

a) Amendatory Section WAC 230-12-050

Extension of credit, loans, or gifts prohibited - Limited exception.

b) Amendatory Section WAC 230-30-070

Control of prizes – Restrictions – Bonus prizes – Displaying – Procedures for awarding.

16. Financial Statements for House-Banked Card Rooms-Dave Trujillo, Assistant Director

Filed 01-11-06 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #06-03-053.

a) Amendatory Section WAC 230-40-821

Accounting systems – House-banked card rooms.

b) Amendatory Section WAC 230-40-823

Financial statements required - House-banked card rooms.

17. Rules Simplification Project

Beth Heston, Project Manager

Filed 03/17/06 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #06-07-108.

a) Chapter 230-11 – Raffles.

Chapter 230-11 won't become effective until 01-01-08.

18. Other Business/General Discussion/Comments from the Public/Adjournment

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Rules Up For Final Action

Proposed Amendments to

WAC 230-04-204 Fees – Individuals.

Companion Rules Simplification Project Rule

WAC 230-05-035 Individual license fees.

This Companion Rule won't become effective until 01-01-08.

ITEM 8 (a) on the June 16, 2006, Commission Meeting Agenda. Statutory Authority 9.46.070
Who proposed the rule change?
Staff.
Proposed Change
The proposed change to the rule would allow deployed armed service personnel to renew their individual licenses at the regular annual renewal rate for up to six months after returning from deployment without additional costs. The licensee will simply renew their license and provide proof of return from active military service within the previous six months.
History of Rule
With the beginning of the Iraq War, individual licensees were deployed with the military or the reserves. If their license expires during military service, these individuals must reapply as new applicants because licenses are issued for one year. They must pay new application fees of \$237 compared to a renewal fee of \$146. In addition, they would pay a \$58 fee if they were out of state. Individual licensees, certifications, and applicants receive no consideration for the circumstance of sudden unexpected deployment and their inability to know when they will return from deployment. When they do return and are discharged or demobilized, they face the expense and paperwork of reapplying for their license.
Impact of the Proposed Change
<p>There will be no major changes or impacts to the agency. The change in this rule will simplify the process for licensees by allowing the renewal of the license.</p> <p>There have been many phone calls to staff and input from tribal gaming agencies about individual licensees who've been deployed and are uncertain what to do about their licenses, applications or certifications.</p>
Regulatory Concerns
<p>There are no regulatory concerns involving changing the rule.</p> <p>Staff contacted the Department of Licensing and found that there are provisions in driver's licensing laws that allow military personnel to legally drive on expired licenses if they pay an additional \$10.00 fee and submit a copy of an active military ID.</p> <p>Additionally, the Department of Licensing Professional Licensing Division has provisions in RCW 43.24.130 which allow the licensee to renew their professional license up to six months after being honorably discharged and which waive requirements for continuing education.</p>

Resource Impacts
Licensing will continue to review and evaluate each application for compliance with Washington State gambling laws and rules. Staff estimates that approximately 30 new individual applications per month are from military-deployed licensees.
Policy Consideration
There will be value to adopting this rule by showing our military and service personnel that our agency appreciates their service to our country without the higher fees required when a license lapses.
Stakeholder Statements Supporting the Proposed Rule Change
Correspondence received after the April 2006, Commission meeting. E-mail from John Bergener dated April 27, 2006, and staff's response dated May 16, 2006 (blue paper).
Stakeholder Statements Opposing the Proposed Rule Change
None.
Licensees Directly Impacted By the Change
Approximately 300 per year.
Staff Recommendation
Adoption.
Proposed Effective Date for Rule Change
WAC 230-04-204: July 17, 2006, assuming the rule is adopted at the June 16, 2006, meeting to become effective thirty one days after filing.
Companion Rules Simplification Project Rule WAC 230-05-035: January 1, 2008.

Amendatory Section:

WAC 230-04-204 Fees -- Individuals. Individuals shall submit the following fees to the commission when applying for gambling licenses, permits, miscellaneous changes, or when assessed the cost of special investigation procedures by the commission:

LICENSE TYPE	DEFINITION	FEE
1. CHARITABLE OR NONPROFIT GAMBLING MANAGER	Original	\$ 171
	Renewal	\$ 82
	Change of Employer	\$ 82
2. LINKED BINGO PRIZE PROVIDER REPRESENTATIVE	Original	\$ 239
	Renewal	\$ 146
3. COMMERCIAL GAMBLING MANAGER	Original	\$ 175
	Renewal	\$ 84
	Change of Employer	\$ 84
4. DISTRIBUTOR'S OR GAMBLING SERVICES SUPPLIER REPRESENTATIVE	Original	\$ 239
	Renewal	\$ 146
5. MANUFACTURER'S REPRESENTATIVE	Original	\$ 239
	Renewal	\$ 146
6. PUBLIC CARD ROOM EMPLOYEE		
CLASS A - Performs duties as defined in WAC 230-02-415 in a class E card room.		
	Original	\$ 175
	Renewal	\$ 84
CLASS B - Performs duties as defined in WAC 230-02-415 in enhanced and house-banked card rooms.		
	Original, in-state	\$ 237
	Original, out-of-state	\$ 295

	Renewal	\$ 146
	Transfer/Additional	
	Employee/Conversion/	
	Emergency Waiver Request	\$ 57
<hr/>		
7.	OTHER FEES	
	CHANGE OF NAME (See WAC 230-04-310)	\$ 26
	DUPLICATE LICENSE (See WAC 230-04-290)	\$ 26
	OUT-OF-STATE RECORDS INQUIRY (See WAC 230-04-240)	As required
8.	<u>If a license expires while an individual is on active military service, the individual may apply to have their license reissued at the renewal fee. The application must be received within six months after completing their active military service. The applicant shall provide evidence of the completion date of active military service.</u>	

Companion Rules Simplification Project Rule

This rule won't become effective until January 1, 2008.

Amendatory Section:

230-05-035 Individuals License Fees.

Individuals must pay the following fees to us when they apply for gambling licenses, permits, miscellaneous changes:

1. Charitable or Nonprofit Gambling Manager

License	Fee
Original	\$171
Renewal	\$82
Change of Employer	\$82

2. Linked Bingo Prize Provider Representative

License	Fee
Original	\$239
Renewal	\$146

3. Commercial Gambling Manager

License	Fee
Original	\$175
Renewal	\$84
Change of Employer	\$84

4. Distributor's or Gambling Services Supplier's Representative

License	Fee
Original	\$239
Renewal	\$146

5. Manufacturer's Representative

License	Fee
Original	\$239
Renewal	\$146

6. Public Card Room Employee

License	Fee
Class A - Performs Card Room Employee duties in a Class E card room.	
Original	\$175
Renewal	\$84
Class B - Performs Card Room Employee duties in enhanced and house-banked card rooms.	
Original, in-state	\$237
Original, out-of-state	\$295
Renewal	\$146
Transfer/Additional Employee/Conversion/Emergency Waiver Request	\$57

7. Other Fees

Change Of Name	\$26
Duplicate License	\$26

8. Military Personnel Returning from Service

If a license expires while an individual is on active military service, the individual may apply to have their license reissued at the renewal fee. The application must be received within six months after completing their active military service. The applicant must provide evidence of the completion date of active military service.

[Statutory Authority: RCW 9.46.070 (5), (6), (14), and (20).]

Chapter 06

Rules for All Licensees

Up for Final Action June 16, 2006.

ITEM 9:

a) Rules Simplification Project

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Rules for Conducting a Gambling Activity

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Rules for Conducting a Gambling Activity

230-06-001 Defining "operator."

"Operator" means any person who buys or otherwise receives gambling equipment for use in authorized gambling activities from a manufacturer or distributor and operates or displays that equipment.

[Statutory Authority: RCW 9.46.070 (14).]

230-06-005 Accept checks in gambling activities.

(1) Licensees may accept a check in the place of cash from a player for authorized gambling activities if

- (a) The check is not a third party check drawn on a personal account or a counter check from the licensee's business; and
- (b) The personal check is dated the same day it is offered and fully negotiable when accepted; and
- (c) The check is not from a player who owes the licensee money from a previous returned personal check. If the licensee uses a check guarantee and collection service, the licensee may disregard this subsection.

(2) If licensees accept a check that violates these requirements, they are violating the rules against extending credit.

[Statutory Authority: RCW 9.46.070 (11) and (20).]

230-06-010 Age restrictions for players.

Licensee must not allow anyone under the age of eighteen to participate in gambling activities except:

- (1) To play in licensed bingo games when accompanied by an adult member of his/her immediate family or a guardian, who is at least eighteen years old. "Immediate family" means only the spouse, parents, or grandparents of an individual. "Guardian" means only a court-appointed, legal guardian of an individual; or
- (2) To play bingo at agricultural fairs or school carnivals; or
- (3) To play amusement games; or
- (4) To sell raffle tickets.

[Statutory Authority: RCW 9.46.070 (14) and (20); RCW 9.46.0331; RCW 9.46.110 (2)(a).]

230-06-015 Prevent intoxicated persons from operating or playing gambling activities.

Licensees must not allow any person who appears to be intoxicated or under the influence of any narcotic or other substance to operate or play any gambling activity.

[Statutory Authority: RCW 9.46.070 (14) and (20).]

230-06-020 Restrictions on alcohol as prizes.

Licensees must not offer or award beverages that contain alcohol as a prize or in place of a prize for any gambling activity except:

- (1) Dice or coin contests for music, food, or beverage payment as authorized by RCW 9.46.0305; and
- (2) Unlicensed members-only raffles authorized by RCW 9.46.0315, but only if the liquor control board granted the appropriate permit; and
- (3) Other gambling activities where the liquor control board has authorized alcohol as a prize.

[Statutory Authority: RCW 9.46.070 (14) and (20).]

230-06-025 Restrictions on firearms as prizes.

Only charitable or nonprofit organizations operating a raffle may award firearms, air guns, or other mechanical devices which are capable of discharging dangerous projectiles, including but not limited to, BB or CO₂ guns, rifles, shotguns, pistols or revolvers, or crossbows as a prize. If the prize awarded is restricted from transfer by state or federal law, the licensee must award the winner a certificate, redeemable by a licensed firearms dealer, for the prize offered.

[Statutory Authority: RCW 9.46.070 (14) and (20).]

230-06-030 Restrictions and conditions for gambling promotions.

Licensees may conduct gambling promotions to encourage players to participate in a gambling activity, but you must follow these restrictions and conditions:

- (1) Promotional items must not exceed five hundred dollars each; and
- (2) You must give all players an equal opportunity to participate; and
- (3) You must establish standards to determine how you will give promotional items to players. You must not give the items based on an element of chance, such as a drawing or spinning wheel, unless you are doing so as part of a bingo game; and
- (4) You must not give another chance to participate in a gambling activity as a promotional item; and

- (5) You must display all rules or restrictions clearly in the gambling area and include them on promotional materials or advertisements; and
- (6) You must not combine gambling activities and related gambling promotions in any way with a promotional contest of chance as defined in RCW 9.46.0356.

[Statutory Authority: RCW 9.46.070 (14) and (20).]

230-06-035 Offer no credit, loans, or gifts.

- (1) Licensees, employees, or members must not extend credit, make loans, or give gifts to any person playing in an authorized gambling activity or which makes it possible for any person to play in an authorized gambling activity.
- (2) Gifts are items licensees give to their customers. Licensees must not connect these gifts to gambling activities we regulate unless the gifts are:
 - (a) Gambling promotions; or
 - (b) Transportation services to and from gambling activities; or
 - (c) Free or discounted food, drink, or merchandise which
 - (i) Costs less than five hundred dollars per individual item; and
 - (ii) Must not be traded back to you for cash; and
 - (iii) Must not give a chance to participate further in an authorized gambling activity.
- (3) You must collect the price required to participate in the gambling activity in full before allowing someone to participate. Licensees must collect cash, check, or electronic point-of-sale bank transfer.
- (4) If the price paid for the opportunity to play a punch board or pull-tab series is ten dollars or less, licensees may collect the price immediately after the play is completed.
- (5) If a charitable or nonprofit organization has a regular billing system for all of the activities of its members, it may use its billing system in connection with the playing of any licensed activities as long as the organization limits play to full and active members of its organization.
- (6) Charitable or nonprofit organizations may allow credit cards, issued by a state-regulated or federally-regulated financial institution, for payment to participate in raffles.

[Statutory Authority: RCW 9.46.070 (11), (14), and (20).]

~~230-06-040 Record gambling promotional items awarded by charitable and nonprofit organizations.~~

~~Charitable and nonprofit organizations must keep a written record for each gambling promotional item awarded that has an actual cost over one hundred dollars. The record must contain, at least:~~

- ~~(1) How the organization selected the recipients of the promotional items; and~~

- ~~(2) The number of promotional items awarded; and~~
- ~~(3) The cost of each promotional item.~~

[Statutory Authority: RCW 9.46.0209 and RCW 9.46.070 (8), (14), and (20).]

230-06-045 Conduct gambling activities on licensed business premises only.

- (1) Licensees must conduct all gambling activities, except for raffle ticket sales, on the licensed business premises.
- (2) Charitable or nonprofit organizations licensed to conduct bingo and punch board and pull-tab games may sell punch boards and pull-tabs to customers of a licensed card room if the charitable or nonprofit organization:
 - (a) Shares a common wall with the card room; and
 - (b) Controls all doors, counters, or windows allowing customer access through the common wall between the two premises and the charitable or nonprofit organization can securely close and lock the doors, counters, or windows; and
 - (c) Keeps and sells the punch board and pull-tab games and redeems prizes only on their licensed business premises. Punch board and pull-tab players may take already purchased punch boards and pull-tabs into the card room area; and
 - (d) Allows only its employees to sell the punch board and pull-tabs; and
 - (e) Posts signs at the door, window, or counter common to the two business premises that clearly notify customers of the organization's identity.

[Statutory Authority: RCW 9.46.070 (14) and (20).]

230-06-050 Review of electronic or mechanical gambling equipment.

- (1) Persons who wish to submit gambling equipment, supplies, services, or games for our review to verify compliance with RCW 9.46 and WAC 230 must pay the application deposit before we perform the review. They must also reimburse us for any additional costs of the review.
- (2) We may require manufacturers to submit electronic or mechanical gambling equipment for review. To allow for continued testing and training, staff may keep any equipment submitted for review for as long as the equipment remains in play in Washington. The manufacturers must reimburse us for any costs of the review. We are not liable for any damage to equipment while in our possession.
- (3) Licensees must operate equipment identical to the version staff approved.

[Statutory Authority: RCW 9.46.070 (5), (14), and (20).]

Notifying Law Enforcement, Posting Public Notices, and Recordkeeping

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Notifying Law Enforcement, Posting Public Notices, and Recordkeeping

230-06-055 Notify law enforcement of gambling activity.

- (1) Licensees must notify local law enforcement agencies, in writing, that they have been licensed before they begin to conduct any activity under the license.
- (2) Licensees must tell local law enforcement agencies
 - (a) The address where they will conduct the gambling activity; and
 - (b) The type of gambling activity licensed; and
 - (c) The first date they will conduct the gambling activity; and
 - (d) The proposed schedule for the operation of the gambling activity if they plan to conduct the activity on a regular basis.
- (3) Licensees must not conduct the activity until they have made the notification.

[Statutory Authority: RCW 9.46.070 (13), (14), and (20).]

230-06-060 Maintain copy of commission rules on business premises.

Licensees must maintain a current version of our rules on their business premises. If any person asks to see our rules, the licensee must produce the rules for that person.

[Statutory Authority: RCW 9.46.070 (14) and (20).]

230-06-065 Display copies of all licenses or have them present on business premises.

- (1) Licensees must prominently display all gambling activity licenses or permits we have issued in the gambling area of their business premises.
- (2) Licensees must have these licenses and permits ready for inspection by us, other law enforcement, and the public at all times.
- (3) Card room employers may choose not to display employee licenses, but must maintain a copy of all card room employees' licenses, proof of licensing, or applications if we have not issued a license, on the licensed premises at all times.

[Statutory Authority: RCW 9.46.070 (14) and (20).]

230-06-070 Keep monthly records.

Every person or organization licensed to operate any gambling activity must maintain permanent monthly records of all financial transactions directly or indirectly related to gambling activities. The licensee must include all financial transactions in enough detail to prove compliance with recordkeeping requirements for the specific gambling activity.

- (1) Every licensee must record for each licensed activity:
 - (a) The gross gambling receipts; and
 - (b) Full details on all expenses; and
 - (c) The total cost of all prizes paid.
- (2) Commercial stimulant licensees must also record:
 - (a) Gross sales of food and drink for consumption on the business premises; and
 - (b) Gross sales of food and drink for consumption off the business premises; and
 - (c) Gross sales from all other business activities occurring on the business premises.
- (3) Licensees must record each licensed activity separately and include all transactions occurring during the calendar month. Licensees must complete these records and have them available for audit or inspection by our agents or other law enforcement no later than thirty days following the end of each month.
- (4) Licensees must include copies of all additional financial data which support tax reports to any governmental agency.
- (5) Licensees must maintain each of these records for at least three years from the end of the fiscal year.

[Statutory Authority: RCW 9.46.070 (8), (9), (11) and (14).]

230-06-075 Removal of equipment or records for inspection.

- (1) If we believe with a reasonable probability that you, your employees, or your members are violating or have violated the provisions of chapter 9.46 RCW, its amendments, or any of our rules, we may remove, inspect, and investigate any records, equipment, parts, and devices of any nature located on your premises that relate to the licensed activity or any other gambling activity.
- (2) We also may remove records from your premises or your control in order to facilitate our review of the records.
- (3) If we receive a written request from you, we will provide you with copies of retained records.
- (4) After the case is resolved, we will return all records, equipment, parts, and devices to the premises or to your address.

[Statutory Authority: RCW 9.46.070 (14) and (20).]

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Reporting Changes to Application Information

230-06-080 Report changes to application information and submit updated documents and information.

- (1) Licensees must notify us in writing if any information filed with the application changes in any way within thirty days of the change.
- (2) Licensees must submit to us any new or updated documents and information, including the following:
 - (a) Articles of incorporation or by laws, or any other documents which set out the organizational structure and purposes; and
 - (b) All oral or written contracts and agreements which relate to gambling activities or alter the organizational structure of the licensee's organization or business activities in Washington; and
 - (c) All cash or asset contributions, draws from lines of credit, and loans (except those from recognized financial institutions) during any calendar year which by themselves or totaled together are more than ten thousand dollars. Cash or asset contributions do not include donations to licensed charitable or nonprofit organizations; and
 - (d) Internal Revenue Service tax deductible status of contributions for charitable and nonprofit organizations.

[Statutory Authority: RCW 9.46.070 (14) and (20); RCW 9.46.153 (1) and (4).]

Reporting Criminal, Civil, and Administrative Actions

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Reporting Criminal, Administrative, and Civil Actions

230-06-085 Report criminal actions filed.

(1) Licensees must report to us in writing within thirty days all criminal actions filed against the licensee, any manager of the licensed gambling activity, the business organization, or any person holding a substantial interest in the business organization.

(2) We must receive a copy of the final written decision or settlement within thirty days after the case is resolved.

[Statutory Authority: RCW 9.46.070 (14) and (20); RCW 9.46.153 (1) and (4).]

230-06-090 Report administrative and civil actions filed.

(1) All licensees must report to us in writing within thirty days all administrative actions filed against them by other gambling regulatory agencies, including those from other countries and Indian tribes.

(2) Licensed organizations must report to us in writing within thirty days all civil and administrative actions that are filed by or against any manager of the licensed gambling activity, the business organization, or any person holding a substantial interest in the business organization. Actions include, but are not limited to,

- (a) Divorces; and
- (b) Bankruptcy; and
- (c) Tax liens; and
- (d) Business dissolutions.

(3) The report must consist of a complete copy of the original documents filed. Licensees must notify the commission of the final disposition of the case and include a copy of the final documents filed including, but not limited to, settlement agreements.

(4) For cases involving patent infringement on gambling equipment, licensees must send only the final written decision or settlement.

(5) We must receive a copy of the final written decision or settlement within thirty days after the case is resolved.

[Statutory Authority: RCW 9.46.070 (14) and (20); RCW 9.46.153 (1) and (4).]

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Changing Names or Locations

230-06-095 Change given name, trade name, or corporate name.

Licensees must notify us and pay a fee for any change to the given name, trade name, or corporate name on their license at least thirty days before the actual change date.

[Statutory Authority: RCW 9.46.070 (14) and (20).]

230-06-100 Changing business locations.

(1) Licensees must apply to us and pay a fee to change the location of their licensed business premises. Licensees must receive our approval before changing the business location.

(2) Commercial amusement game licensees may add or delete from the list of locations for which we issued their license without paying a fee.

[Statutory Authority: RCW 9.46.070 (14), and (20).]

Changing Management or Ownership

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Changing Management or Ownership

230-06-105 Report change of management.

(1) Licensees must report in writing changes made to their organization's management, directors, officers, or any other position that makes management decisions directly affecting the operation of their licensed gambling activity. We provide the forms to report these changes.

(2) If you are a commercial business licensee, you must report within thirty days.

(3) If you are a charitable or nonprofit organization licensee, you must report the changes when renewing your annual license.

[Statutory Authority: RCW 9.46.070 (14) and (20).]

Sales and Transfers of Equipment, Products, and Services

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Sales and Transfers of Equipment, Products, and Services

230-06-110 Buy, sell, or transfer gambling equipment.

- (1) Before selling gambling equipment, licensees must ensure that the buyer possesses a valid gambling license.
- (2) Before purchasing gambling equipment, licensees must ensure that the seller possesses a valid gambling license.
- (3) Applicants for a Class F or house-banked card room licenses may purchase and possess gambling equipment during the pre-licensing process, but only after receiving written approval from us.
- (4) Licensees may transfer gambling equipment as a part of a sale of a business as long as a condition of the sale is that the buyer receives a gambling license before the sale is complete. Licensees must make a complete record of all gambling equipment transferred in this manner, including commission identification and inspection services stamp numbers. Licensees must report these transfers, including a copy of the inventory record, to us.

[Statutory Authority: RCW 9.46.070 (14) and (20); RCW 9.46.310.]

230-06-115 Using checks or credit cards to purchase gambling equipment, products, or services.

- (1) Licensees may use checks or credit cards from state- or federally-regulated financial institutions to purchase gambling equipment, devices, related supplies or paraphernalia, and services.
 - (a) Checks must be drawn on the licensed buyer's business account or on the personal account of an owner, partner, officer, or a substantial interest holder of a corporate licensee; and
 - (b) Checks must be negotiable and dated on or before the delivery date of the product or service.
- (2) Licensees must deposit checks at their bank:
 - (a) Within ten calendar days after the date the licensee delivered the product or service; or
 - (b) If a licensed buyer makes payment by mail, within thirteen days from the date postmarked on the envelope containing the payment.

[Statutory Authority: RCW 9.46.070 (14) and (20).]

230-06-120 Sell or transfer gambling equipment to manufacturers or distributors.

- (1) If we have revoked your operator or distributor license, your license has expired, or you have voluntarily surrendered your license, you may sell or otherwise transfer gambling equipment to a licensed manufacturer or distributor.

(2) Transfers of gambling equipment in this manner are subject to the following requirements:

- (a) The transfer must be complete within thirty days of the date the license became invalid; and
- (b) Distributors must use the cash or credit against amounts they owe manufacturers; and
- (c) Operators or distributors selling the equipment must report to us within ten days of the transaction a complete inventory of all the gambling equipment transferred, including commission identification and inspection services stamp numbers; and
- (d) Manufacturers or distributors receiving the equipment must prepare a credit memorandum and retain it with their records.

[Statutory Authority: RCW 9.46.070 (14) and (20).]

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License Renewals

230-06-125 Renew your license in a timely manner.

- (1) Licensees must ensure a properly completed renewal application and all applicable fees are received at our headquarters fifteen days before the expiration date on their license.
- (2) If licensees do not submit a properly completed application and all fees, their license expires, and they must immediately stop the gambling activity covered by their license.
- (3) If your license expires, you must submit a new application and you must not operate any gambling activity until a new license is issued.

[Statutory Authority: RCW 9.46.070 (1-5), (14), and (20).]

230-06-130 Exceeding license class.

- (1) Licensees must not exceed the gross gambling receipts limits for their license class during any annual license period.
- (2) Licensees must apply a projection of year-to-date receipts to the remaining period of their license and, if it indicates that it is reasonably likely that they may exceed their license, they must immediately:
 - (a) Apply for a license that authorizes the anticipated level of gross gambling receipts; and
 - (b) Submit the fee required for the new license, minus the amount originally submitted for the previous license, plus a change of classification fee.
- (3) If we issue a license upgrade, it is valid only for the remainder of the original term of the license.
- (4) Licensees may exceed license class limits once, by the amount shown in the fees table, without having to upgrade or pay the penalties as long as they upgrade to the higher license class the next time they renew their license.

[Statutory Authority: RCW 9.46.070 (1-6), (14), and (20).]

230-06-135 Failing to apply for license class upgrade.

- (1) If licensees fail to apply for a license class upgrade and exceed the license class limit within a present or previous license year, we assess an additional fee. We charge an additional fee of up to fifty percent of the difference between the fee for the present license class and the new license class, or one thousand dollars, whichever is less.
- (2) Licensees must pay any required license class upgrade fee, plus any additional fee required by subsection (1), within thirty days of our notification.
- (3) Failure to pay the fees may result in an immediate summary suspension of all licenses.

[Statutory Authority: RCW 9.46.070 (5), (6), (14), and (20); RCW 9.46.075 (1).]

230-06-140 Partial refund of license fees if gambling receipts limit not met.

(1) Licensees may apply for a partial refund of their license fee when their annual gross gambling receipts are less than the minimum for the class of license we issued to them.

(2) Licensees may receive a refund for the difference between the fees actually paid and the fees that would normally apply to the level of gross gambling receipts actually received during the period.

(3) Licensees may make their request for refund after the end of any annual license period and before the end of the next annual license period.

[Statutory Authority: RCW 9.46.070 (5), (6), (14), and (20).]

230-06-145 Surrendering suspended or revoked licenses.

If we suspend or revoke your license, you must, on demand, surrender the license and return it to us.

[Statutory Authority: RCW 9.46.070 (14), and (20).]



Rule Up For Final Action

NEW SECTION 230-06-015 Preventing intoxicated persons from operating or playing gambling activities

ITEM 9 (a) on the June 16, 2006, Commission Meeting Agenda.	Statutory Authority 9.46.070
Who proposed the rule change?	
Staff.	
Proposed Change	
The proposed change will take rules requiring licensees to prevent intoxicated persons from gambling from the Card Room Rules (WAC 230-40-320(1) & (3)) and Punch Board and Pull-Tab Rules (WAC 230-30-050) and combine them to form a new rule that requires licensees to prevent intoxicated persons from participating in or operating amusement games, bingo, card games, punch board and pull-tabs, or raffles.	
History of Rule	
The current rules apply to licensees to prevent intoxicated persons from gambling in card rooms and locations that sell punch boards and pull-tabs.	
Impact of the Proposed Change	
This proposed change adds consistency to our regulations by applying the same standard to all gambling activities.	
Regulatory Concerns	
This proposed rule change expands regulation by requiring all licensees to prevent intoxicated persons from participating in gambling or operating gambling activities.	
Resource Impacts	
We expect this to have little impact on staff resources.	
Policy Consideration	
The change to this rule strengthens restrictions against intoxicated persons gambling or operating gambling activities. It also makes the rule apply to all licensees where it had previously only covered card room and punch board/pull-tab licensees.	
Stakeholder Statements For the Proposed Rule Change	
None.	
Stakeholder Statements Against the Proposed Rule Change	
None.	

Licensees Directly Impacted
All gambling licensees will now have to prevent intoxicated persons from operating or participating in gambling activities.
Staff Recommendation
Staff recommends filing for further discussion.
Proposed Effective Date for Rule Change
January 1, 2008.

Rule Up For Final Action



NEW SECTIONS 230-06-085 Report changes to application information and submit updated documents and information;

230-06-085 Report criminal actions filed;

230-06-090 Report civil and administrative actions filed;

230-06-095 Change given name, trade name, or corporate name;

230-06-105 Report change of management;

230-06-120 Sell or transfer gambling equipment to manufacturers or distributors

230-06-135 Failing to apply for license class upgrade.

ITEM 9 (a) on the June 16, 2006, Commission Meeting Agenda.	Statutory Authority 9.46.070
Who proposed the rule change?	
Staff.	
Proposed Change	
The current rules had a number of different time periods associated with submitting information regarding licensure. This rule will standardize the amount of time we give licensees to submit data of several types to thirty days.	
History of Rule	
Because the current rules were passed at different times and for different reasons, they each have a different response period for licensees. The periods ranged from ten, to fourteen, to thirty, to sixty days. Understandably, licensees found this confusing and often have to consult with staff about the response period.	
Impact of the Proposed Change	
Changing the response period to a consistent time period of thirty days makes our regulation of licensees more consistent and does not impact our processes in any way.	
Regulatory Concerns	
Regulation and compliance will be easier with this change. There are no longer several different due dates and time periods.	
Resource Impacts	
None.	
Policy Consideration	
None.	
Stakeholder Statements For the Proposed Rule Change	
None.	
Stakeholder Statements Against the Proposed Rule Change	
None.	
Licensees Directly Impacted	
All licensees.	
Staff Recommendation	
Further discussion.	
Proposed Effective Date for Rule Change	
January 1, 2008.	



Rule Up For Final Action

Proposed Movement of
WAC 230-06-040
Record gambling promotional items awarded by charitable and nonprofit
organizations.

ITEM 9 (a) on the June 16, 2006, Commission Meeting Agenda.	Statutory Authority 9.46.070
Who proposed the rule change?	
Staff.	
Proposed Change	
We propose to relocate this rule from Chapter 06 Rules for All Licensees to Chapter 07 Charitable and Nonprofit Rules.	
History of Rule	
This is a long-standing rule, but when this section was separated out of the original rule, it stopped applying to all licensees and applies only to charitable and nonprofit licensees. Therefore, the rules should be moved to Chapter 07 Charitable and Nonprofit Rules.	
Impact of the Proposed Change	
No impact will be caused by the movement of the rule. It will, in fact, strengthen our organization for Chapters 06 and 07.	
Regulatory Concerns	
None.	
Resource Impacts	
None.	
Policy Consideration	
None.	
Stakeholder Statements For the Proposed Rule Change	
None.	
Stakeholder Statements Against the Proposed Rule Change	
None.	
Licensees Directly Impacted	
Charitable and nonprofit licensees will be able to quickly locate and comply with this rule.	
Staff Recommendation	
Approval for the movement of the rule.	
Proposed Effective Date for Rule Change	
January 1 2008.	



Rule Up For Final Action

Proposed New Rule

WAC 230-12-337

Manufacturers and distributors transporting and displaying gambling devices - Trade shows and conventions.

ITEM 10 (a) on the June 16, 2006, Commission Meeting. Statutory Authority RCW 9.46.070 & RCW 9.46.215(2)(3)
Who proposed the rule change?
Staff.
Proposed Change
This new rule would allow licensed manufacturers and distributors to transport, display and take orders for authorized gambling devices at trade shows and conventions. The target audience of the trade show or convention must be operators of authorized gambling activities.
History of Rule
RCW 9.46.215 states that the possession or transportation of gambling devices is illegal, unless it is in the furtherance of a gambling activity authorized by RCW or Commission rule. The new rule authorizes licensed manufacturers and distributors to transport gambling devices to trade shows and display them to authorized operators. The new rule would not allow unlicensed manufacturers or distributors to possess or transport gambling devices in Washington state.
Impact of the Proposed Change
Commission staff has received an increased number of inquiries from manufacturers and distributors about whether they can display their gambling devices at trade shows or conventions. The agency has devoted staff resources to respond individually to these inquiries. The new rule will provide guidance to staff and licensees as to where gambling devices may be transported and possessed. Additionally, the new rule will promote consistency among Commission staff when applying the law to various situations.
Regulatory Concerns
None.
Resource Impacts
Staff receives three to five requests a year to bring devices into the state. It takes multiple staff, several hours each to respond to each request. The rule will reduce staff time responding to these requests.
Policy Consideration
This new rule would allow the activity and provide for strict regulation and control.
Stakeholder Statements Supporting the Proposed Rule Change
None.
Stakeholder Statements Opposing the Proposed Rule Change
Letter dated July 12, 2005, from Director Day to Mr. Stebbins, Executive Director of the Washington Indian Gaming Association (WIGA). Letter dated March 30, 2006, from Mr. Stebbins, Executive Director of the WIGA, to Chair Ludwig, proposing alternative language for this rule change. Staff opposes the proposed alternative language because it would give the Commission's authority and responsibility to other states and sovereign nations. It would also impact enforcement and uniformity.
Licensees Directly Impacted By the Change
Manufacturers, distributors, and operators of gambling devices.
Staff Recommendation
Adoption.
Proposed Effective Date for Rule Change
July 17, 2006, assuming the rule is adopted at the June 16, 2006, meeting to become effective 31 days from filing.

New Section:

WAC 230-12-337 Manufacturers and distributors transporting and displaying gambling devices - Trade shows and conventions.

A manufacturer or distributor licensed by the Washington State Gambling Commission to sell gambling devices authorized by state or federal law may transport, display and accept orders for the sale or lease of those devices at trade shows and conventions, under the following restrictions:

- 1) The target audience of the trade show or convention must be operators of authorized gambling activities in Washington State;
- 2) The commission must be notified in writing of the nature, date, and location ten days before the trade show or convention; and
- 3) All gambling devices purchased or leased at the trade show or convention must be delivered to the operator's authorized location.



Rule Up For Discussion

Proposed Amendment

WAC 230-40-610

Player-supported jackpots—Restrictions—Manner of conducting—Approval.

ITEM 11 (a) on the June 16, 2006, Commission Meeting Agenda.	Statutory Authority 9.46.070 & 9.46.0282
Who proposed the rule change?	
Cory Thompson, card room employee.	
Proposed Change	
The proposed rule change would prohibit on-duty card room employees from contributing to player-supported jackpots, which they are not eligible to win.	
History of Rule	
<p>During the 1996 Legislative Session, player-supported jackpots (PSJ) were authorized for poker games. A PSJ is a separate contest of chance directly related to the play and/or outcome of authorized poker games, but which is not the card game itself. The licensee uses the PSJ prize as a marketing tool to encourage or increase poker play. The licensee removes (rakes) up to two dollars per hand from the winner's pot for deposit into the PSJ prize fund.</p> <p>Currently, owners, custodians, and on-duty card room employees may participate in card games that offer a PSJ but may not share in the PSJ winnings. This prohibition has been in existence since PSJ's were authorized. Any PSJ winnings an owner or on-duty card room employee may be entitled to under game rules must be divided equally among the other players at the table. Off-duty card room employees may participate in card games that offer a PSJ and may share in the PSJ winnings.</p> <p>Card rooms often require card room employees to play in poker games while on-duty in order to keep games going when there are not enough players.</p>	
Impact of the Proposed Change	
<p>This change would impact all card rooms that offer PSJ prizes. All on-duty card room employees would be exempt from contributing to the PSJ prize funds.</p> <p>The petitioner states that employees, at times, are required by licensees to play while on-duty and to contribute (up to two dollars per hand) to PSJ prizes they are ineligible to win. The Petitioner feels that if on-duty card room employees are not eligible to win the PSJ prize, they should not be forced to contribute to the PSJ prize fund.</p> <p>The house rakes up to two dollars from the poker pot, not from each individual player, and deposits it into the PSJ prize account.</p> <p>Under the rake method of collecting fees there is currently no process to separate the PSJ fees collected from the card room employees from the fees collected from other poker players. The exact amount contributed by each player varies based on the number of players at the table. For example, if there are ten players at the table and two dollars is raked from the pot, each player has contributed 1/10th of the fees collected, or twenty cents each. Requiring employers to track each transaction in order to refund the on-duty employee's correct portion would be cumbersome to monitor and record.</p>	

Regulatory Concerns
<p>The Petitioner requests that the PSJ rake be returned to on-duty employees or that they be eligible to win a PSJ. On the surface the Petitioner's request may seem fair and simple. However, it is more complicated than it first appears:</p> <ol style="list-style-type: none"> 1) The on-duty card room employee does not contribute the entire amount of the PSJ rake. The amount raked from the pot for the PSJ prize, up to \$2 per pot, is a small part of the total pot and the on-duty card room employee's portion is a small fraction of the PSJ funds collected. 2) The Petitioner has not identified a way to track and account for an on-duty card room employee's share of the PSJ rake and staff is not aware of an efficient and cost effective way to do this. 3) WAC 230-40-610 (6) was written to protect the integrity of card games and allow players to win PSJs. 4) This may be more of an employer/employee decision, rather than a regulatory issue. <p><u>Update after the April 2006, Commission Meeting:</u> At the April 2006 meeting, the Petitioner testified that on-duty employees in Arizona, California and Nevada can either be eligible to win the jackpot or the licensee gives the money back to the player.</p> <p>Staff contacted five states and found the following regulations:</p> <ul style="list-style-type: none"> • Arizona and California allow on-duty and off-duty card room employees to play and win the jackpot. • Nevada does not have rules prohibiting card room employees from playing cards where they work and winning the jackpot, however, it is not encouraged because of potential problems and appearances. • Colorado does not allow on-duty and off-duty card room employees to play cards. • Mississippi does not allow on-duty card room employees to play cards; however, off-duty card room employees may play cards and win jackpots.
Resource Impacts
<p>Staff currently monitors compliance of card room activity including the fees collected for playing the game and the PSJ funds.</p> <p>New rules with recordkeeping requirements would need to be created to monitor PSJ funds returned to on-duty employees.</p> <p>It would take significant staff time to monitor for compliance.</p>
Policy Consideration
None.
Stakeholder Statements Supporting the Proposed Rule Change
None.
Stakeholder Statements Opposing the Proposed Rule Change
None.
Licensees Directly Impacted By the Change
Card rooms that offer PSJ poker games and card room employees.
Staff Recommendation
Deny the petition.

Amendatory Section

WAC 230-40-610 Player-supported jackpots — Restrictions — Manner of conducting — Approval.

A player-supported jackpot (PSJ) is a separate contest of chance directly related to the play and/or outcome of authorized nonhouse-banked card games but which is not the card game itself. Card rooms with a Class F or house-banked license may establish a prize fund for the purpose of operating a PSJ for nonhouse-banked card games. Any PSJ must be approved in writing by the director or the director's designee prior to play. A PSJ must meet the following requirements:

Funding a PSJ.

(1) A licensee may provide house funds to establish a PSJ. The licensee shall issue a check from the general business account into the PSJ account to start the prize fund. Recouping of start up funds shall be done by issuing a check from the PSJ account to the business general account. Electronic bank transfers shall satisfy this requirement. Start up funds shall not exceed five thousand dollars per PSJ.

Using a rake to fund a PSJ.

(2) A licensee may assess a portion of players' wagers for a jackpot prize. Such amount shall not exceed two dollars per hand or game for each PSJ. This assessment shall be separately collected using the rake method.

PSJ funds are player funds - exception from administrative fee.

(3) The licensee acts only as the custodian of the PSJ funds, including any interest earned on this money, and maintains no legal right to the funds. All PSJ funds shall be awarded as prizes, based upon a format approved by commission staff. An administrative fee not to exceed ten percent of the amount collected for a PSJ may be imposed by the licensee. This administrative fee includes all expenses incurred by the licensee, including banking fees. No other expenses beyond the ten percent administrative fee shall be deducted from the PSJ account.

Prize fund custodian.

(4) Each licensee shall designate at least one "prize fund custodian" who shall be responsible for safeguarding and disbursing funds to winners. A prize fund custodian may be an owner, partner, officer, or licensed individual designated by a card room owner, partner, or officer. The custodian shall have signature authority for prize fund bank accounts and ensure accountability of all funds collected for use in a PSJ. The licensee shall meet the deposit requirements of [WAC 230-40-608](#).

Payout of prizes.

(5) Prize amounts paid in cash shall not exceed two thousand five hundred dollars. Prize amounts not awarded in cash shall be paid within twenty-four hours, by check, the type which provides a duplicate copy. A record of all prizes paid shall be maintained in the format prescribed by commission staff and shall include:

(a) For prizes less than one hundred dollars, a system of accounting denoting each individual prize may be utilized.

(b) For prizes one hundred dollars and above, the following information shall be recorded on a prize record:

- (i) Full printed name;
- (ii) Date of birth;
- (iii) Street address;
- (iv) Type of identification reviewed;
- (v) Amount of the prize awarded;
- (vi) Description of the winning hand;
- (vii) Time and date awarded; and
- (viii) The supervisor's and dealer's initials.

(c) When awarding a prize of five hundred dollars or more, the dealer must, in view of the surveillance camera, display the value and suit of each card in the winning hand, and the remaining cards in the deck must be counted and put in numerical order by suit to confirm a complete deck. The hand shall be collected and sealed with the prize record. The winning hand and remaining deck shall be maintained on the premises as part of daily card room records for a period of seven days, unless released by a commission agent.

Owners and employees competing for a PSJ.

(6) Owners, custodians and on-duty card room employees may participate in card games that offer a PSJ, but may not **contribute to or** share in the winnings of any prize awarded. Any prize winnings an owner or on-duty employee may be entitled to under game rules, must be divided equally among the other players at the table: Provided, That off-duty employees may participate in card games that offer a PSJ and share in the prize winnings.

Owners and employees showing cards.

(7) Owners and on-duty card room employees must turn their cards face up at the end of each game so they may be observed by other players at the table and surveillance if:

- (a) Playing in a game with a PSJ;
- (b) The prize is not based upon a predetermined hand; and
- (c) There is a qualifying hand at the end of a game (such as a "bad beat" hand).

House dealer required.

(8) All card games offering a PSJ must utilize a house dealer.

Security requirements.

(9) Each gaming table offering a PSJ shall be required to install a closed circuit television system as outlined in WAC 230-40-625: Provided, That licensees operating any house-banked card games shall follow the security requirements set forth in WAC 230-40-825 for all tables in the card room, including those offering a PSJ.

Removing a PSJ from play.

(10) The following procedures shall be followed for all discontinued player-supported jackpots:

Discontinued.

(a) In the event a licensee elects to discontinue a PSJ, the balance, less any nonrecouped seed money, shall be distributed to players within sixty days of discontinuance by offering an approved promotion or card tournament of the same game under which the PSJ was originally accrued.

Closure of business.

(b) In the event a licensee ceases to operate a card room, or fails to maintain a valid card room license, all funds associated with the PSJ shall be distributed to the Washington state council on problem gambling.

Posting rules.

(c) The licensee shall conspicuously post a sign stating how PSJ money will be distributed in the event the PSJ is discontinued or the business closes. The sign must be posted at the inception of the PSJ.

House rules.

(11) House rules, to include administrative fees shall be posted in a location readily visible by all players and disclose the conditions under which prizes may be won, the prize amount, cost to participate, and any other conditions which may affect the outcome of the game.

Dispute resolution.

(12) If a dispute arises involving the outcome of a PSJ, the licensee shall preserve the video recording, the winning hand and remaining deck, and all records for the game where the dispute occurred and shall notify commission staff within twenty-four hours. The licensee shall document all information pertaining to the dispute including:

(a) The names, addresses, and phone numbers of all players, card room staff, and any

witnesses involved;

(b) Amount of the advertised PSJ; and

(c) A full description of the circumstances surrounding the dispute.

(13) All disputes involving a PSJ will be investigated by commission staff, with a report submitted to the director. A written decision will be issued by the director, or the director's designee, and such decision shall be final.

(14) During the course of dispute resolution, the commission may become the temporary custodian of any and all prize funds. The PSJ will be suspended until the dispute is resolved.



Rules Up For Discussion

Proposed Amendments to

WAC 230-12-340 Sale of gambling equipment, devices, supplies, paraphernalia, and related services—Authorized transactions.

WAC 230-20-244 Electronic bingo card daubers—Definition—Operating restrictions—Standards.

ITEM 12 (a) on the June 16, 2006, Commission Meeting Agenda.	Statutory Authority 9.46.120
Who proposed the rule change?	
GameTech International, Inc., a licensed manufacturer of electronic bingo daubers.	
Proposed Change	
The Petitioner is requesting that manufacturers and distributors be allowed to lease electronic bingo daubers based on the number of bingo cards sold to a device.	
History of Rule	
On October 10, 2005, language was added to WAC 230-12-340 limiting electronic bingo daubers to be leased based on the number of times a device is used or the number of bingo sessions in which devices are used. Fees cannot be charged based on a percentage of sales, the number of bingo cards sold through the device or the average amount a player spends on a device. This change was made to place restrictions listed in WAC 230-20-244(2)(g) in with all the other sales and lease restrictions.	
RCW 9.46.120 states in part that “No part of the proceeds of the activity shall inure to the benefit of any person other than the organization conducting such gambling activities or if such gambling activities be for the charitable benefit of any specific persons designated in the application for a license, then only for such specific persons as so designated.”	
WAC 230-02-108 states that “expenses are deemed to be when they are required to operate an activity or they improve the overall profitability of the activity by increasing gross gambling receipts more than the corresponding increase in expenses.”	
Allowing electronic bingo daubers to be leased on a per-card fee is equivalent to allowing them to determine the fee based on the percentage of gross receipts.	
Impact of the Proposed Change	
<p>The Petitioner justifies the proposal in (1) through (6) below:</p> <ol style="list-style-type: none"> 1) They would benefit by having more leasing arrangements available to offer their customers. 2) RCW 9.46.120(1) states in part that no part of the proceeds of the gambling activity shall inure to the benefit of any person other than the organization conducting the gambling activity. 3) WAC 230-02-108 defines proceeds as all monies remaining from the operation of any gambling activity after payment of prizes and necessary expenses. 4) The ability to charge operators on a per-card sold basis does not in any way entitle a person to the proceeds from the operation. 5) WAC 230-02-108 states that expenses are deemed to be necessary when they are required to operate an activity or they improve the overall profitability of the activity by increasing gross gambling receipts more than the corresponding increase in expenses. 6) The ability to charge an operator based on per-cards sold is the ultimate rationale in satisfying the improvement in profitability criterion, because the operator would never owe anything if nothing is sold. 	

Currently, manufacturers and distributors must base fees on the number of times an electronic bingo dauber is used, or the number of sessions it is used at. Bingo operators are not billed if the electronic bingo dauber is not used.

This rule change would directly connect billings for electronic bingo daubers to sales of bingo cards.

Regulatory Concerns

There will be a minimal impact on our regulatory programs if this petition is passed.

Resource Impacts

Staff currently monitors compliance with this rule in one step of a compliance module that takes only a few minutes to complete approximately once a year for bingo licensees with electronic bingo daubers. The change will have little effect on our regulatory program.

Policy Consideration

This is a significant departure from the Commission's application of RCW 9.46.120, which has not allowed billings to be based on a percentage of sales.

The Petitioner has not provided information necessary to determine if this change would increase the overall profitability of the gambling activity and comports with WAC 230-02-108 which states "expenses are deemed to be necessary when they are required to operate an activity or they improve the overall profitability of the activity by increasing gross gambling receipts more than the corresponding increase in expenses."

Correspondence added after the April 2006, Commission meeting:

Letter dated April 19, 2006, to GameTech, Inc., requesting clarification on how this change meets the definition of a necessary expense and what games the petitioner intends to use this billing method on (blue paper).

Stakeholder Statements Supporting the Proposed Rule Change

None.

Stakeholder Statements Opposing the Proposed Rule Change

None.

Licensees Directly Impacted By the Change

Manufacturers, distributors, and operators of electronic bingo daubers.

Staff Recommendation

Further discussion.

Proposed Effective Date for Rule Change

The Petitioner requests the change become effective 31 days from filing.

Amendatory Section:

WAC 230-12-340 Sale of gambling equipment, devices, supplies, paraphernalia, and related services — Authorized transactions.

Manufacturers and distributors must not offer credit to operators in the sale of gambling equipment, devices, related supplies or paraphernalia, and services. Manufacturers and distributors must conduct all sales of such to operators on a cash basis. "**Cash basis**" means full payment is received by the seller on or before actual delivery of the product or service to the purchaser.

Capital leases.

(1) All licensed manufacturers and distributors may sell gambling equipment such as dispensers, bingo blowers, roulette wheels, etc., and gambling-related support equipment through capital lease agreements or other financing arrangements to operators subject to the following conditions and requirements:

- (a) The cost of a single item, or group of similar and related items included in the sale, exceeds one thousand dollars;
- (b) The term of the contract does not exceed forty-eight months;
- (c) All terms of the contract are in writing and copies of such agreements are provided to the commission within thirty days of execution;
- (d) The manufacturer or distributor retains only a security interest in the item sold and cannot obtain any ownership interest in the licensee, or exercise any control over the use of the item in the licensed activity;
- (e) The amount of payments is not based on the size or level of gambling activity and is determined by use of a standard amortization schedule for the term and stated interest rate;
- (f) The interest rate charged by the contract is set at the time of sale and does not vary during the term of the contract; and
- (g) The contract does not require the purchaser to directly or indirectly purchase any other products or services from the seller.

Rental or license agreements.

(2) Except for punch boards, pull-tabs, bingo paper, bingo supplies, playing cards, and other consumable gambling-related equipment or devices, manufacturers and distributors may lease or rent gambling equipment to operators. Manufacturers may also enter into license agreements with operators for use of the manufacturer's patented, copyrighted, or trademarked games.

(3) Manufacturers and distributors may only base fee structures for electronic bingo equipment on the number of times a device is used, **the number of bingo cards sold to a device** or the number of bingo sessions in which devices are used. Fees must not be determined by a percentage of sales, ~~((the number of bingo cards sold through the device,))~~ or the average amount a player spends on a device.

Check or credit card purchases.

(4) Operators may purchase goods and services from manufacturers or distributors when paid for by checks, or credit card issued by a state and/or federally regulated financial institution that meet the requirements of WAC 230-12-350.

Exceptions.

(5) All transactions between manufacturers or distributors and tribal governments or companies certified to manage class III gambling activities operated under a tribal/state compact are exempt from all provisions of this section;

(6) Charitable or nonprofit organizations licensed to conduct bingo may purchase bingo cards and bingo supplies from distributors and/or manufacturers and receive such without making immediate payment if payment is made, by check or cash, no later than thirty days after delivery of the product.

Amendatory Section:

WAC 230-20-244 Electronic bingo card daubers — Definition — Operating restrictions — Standards

The commission deems that any device, apparatus, or scheme that allows a player in any gambling activity a material advantage over other players is against public policy and restriction of such is in the public's interest. Electronic bingo card marking devices or daubers are deemed to provide a player a material advantage unless operated in accordance with subsection (2) of this section. For purposes of this title, the following definitions, restrictions, and standards apply to such devices:

Definition.

(1) Electronic bingo card daubers are defined as electronic appliances used by players to identify bingo cards that contain numbers or symbols input by a player. These devices electronically store preprinted bingo cards purchased by a player, provide a means for players to input numbers or symbols called by the operator, compare the numbers or symbols input by the player to bingo cards previously stored in an electronic data base, and identify to the player those stored bingo cards that contain the numbers or symbols input by the player: Provided, That player-owned devices, which are not directly interfaced with or connected to equipment used to conduct bingo games or the electronic data base in which electronically generated bingo cards are stored in any manner, are not "electronic bingo card daubers" for purposes of this title;

Operating restrictions.

(2) Electronic bingo card daubers will not be deemed to provide players a material advantage and may be used by players in bingo games when operated in the following manner:

Player responsibilities.

- (a) The player must perform at least the following functions:
 - (i) Input each number or symbol called by the operator into the memory of the dauber unit by use of a separate input function for each number symbol. Automatic or global marking of numbers or symbols is prohibited;
 - (ii) Notify the operator when a winning pattern or "bingo" occurs by means that do not utilize the dauber unit or the associated system; and
 - (iii) Identify the winning card and display the card to the operator;

Maximum number of cards to be played during each game.

- (b) Each electronic dauber unit shall not allow a player to play more than sixty-six cards at one time.
- (c) Each player shall not use more than one electronic dauber at any point in time. Provided, That a player can play an unlimited amount of disposable or hard bingo cards in addition to using one electronic dauber unit.

Reserving electronic bingo card daubers.

(d) Operators shall not reserve electronic daubers for any player. An operator must devise and disclose to players a scheme for assignment of dauber units to players during each session. Such schemes shall allow all players an equal opportunity to utilize the available dauber units. If a drawing is used to assign dauber units to players, the operator shall ensure that each player

participating in the drawing has an equal chance to win: Provided, That operators that offer electronic dauber units shall reserve at least one device for players with disabilities that would restrict their ability to mark cards and such disabilities are consistent with definitions set forth in the Americans with Disabilities Act (ADA). If there are no requests for use of this unit prior to fifteen minutes before the scheduled start of the session, it may be made available for use by any players;

Fees.

(e) If operators charge players a fee for use of the electronic daubers, such fees must be a flat fee and shall not be based on the number or dollar value of cards purchased. Rental fees shall be considered bingo receipts for purposes of WAC 230-12-020: Provided, That players with disabilities that would restrict their ability to mark cards and such disabilities are consistent with the ADA shall not be required to pay a rental fee or to comply with minimum purchase requirements imposed on all players utilizing electronic daubers. Such players are required to comply with any minimum purchase requirement imposed on all players by an operator;

Card requirements.

(f) Each player utilizing an electronic dauber must have in their possession cards that meet all requirements of WAC 230-20-240 and 230-20-106. Electronic images of cards or faces stored in such devices are for player convenience only and are not bingo cards for purposes of this title;

Leasing by an operator.

(g) If the electronic daubers are leased to an operator, the lease cannot be based in whole or part on the amount of ((bingo card sales or)) rental income derived from such devices; and

Discounts and marketing schemes.

(h) The use of electronic daubers is prohibited when a licensee utilizes any marketing scheme for cards that results in a decrease in the per unit price of each card as the number of cards purchased increases: Provided, That a single discount level is authorized for each type of card sold if:

- (i) The licensee has a minimum purchase requirement;
- (ii) The discount applies to all additional cards purchased; and
- (iii) "All you can play" schemes are prohibited;

Standards.

(3) Electronic bingo card daubers must meet the following standards:

- (a) Be manufactured by licensed manufacturers;
- (b) Be sold, leased, and serviced by licensed distributors or manufacturers: Provided, That operators may perform routine maintenance on devices under their control;
- (c) Not be capable of accessing the electronic computer system in any manner that would allow modification of the program which operates and controls the dauber units or the cards stored in the electronic data base; and
- (d) Be capable of complying with applicable requirements of WAC 230-20-106.

REPEALED SECTION:

~~((WAC 230-12-340 Sale of gambling equipment, devices, supplies, paraphernalia, and related services—Authorized transactions.—~~

~~Manufacturers and distributors must not offer credit to operators in the sale of gambling equipment, devices, related supplies or paraphernalia, and services. Manufacturers and distributors must conduct all sales of such to operators on a cash basis. "Cash basis" means full payment is received by the seller on or before actual delivery of the product or service to the purchaser.~~

~~Capital leases.~~

- ~~—(1) All licensed manufacturers and distributors may sell gambling equipment such as dispensers, bingo blowers, roulette wheels, etc., and gambling related support equipment through capital lease agreements or other financing arrangements to operators subject to the following conditions and requirements:~~
- ~~—(a) The cost of a single item, or group of similar and related items included in the sale, exceeds one thousand dollars;~~
- ~~—(b) The term of the contract does not exceed forty eight months;~~
- ~~—(c) All terms of the contract are in writing and copies of such agreements are provided to the commission within thirty days of execution;~~
- ~~—(d) The manufacturer or distributor retains only a security interest in the item sold and cannot obtain any ownership interest in the licensee, or exercise any control over the use of the item in the licensed activity;~~
- ~~—(e) The amount of payments is not based on the size or level of gambling activity and is determined by use of a standard amortization schedule for the term and stated interest rate;~~
- ~~—(f) The interest rate charged by the contract is set at the time of sale and does not vary during the term of the contract; and~~
- ~~—(g) The contract does not require the purchaser to directly or indirectly purchase any other products or services from the seller.~~

~~Rental or license agreements.~~

- ~~—(2) Except for punch boards, pull tabs, bingo paper, bingo supplies, playing cards, and other consumable gambling related equipment or devices, manufacturers and distributors may lease or rent gambling equipment to operators. Manufacturers may also enter into license agreements with operators for use of the manufacturer's patented, copyrighted, or trademarked games.~~
- ~~—(3) Manufacturers and distributors may only base fee structures for electronic bingo equipment on the number of times a device is used or the number of bingo sessions in which devices are used. Fees must not be determined by a percentage of sales, the number of bingo cards sold through the device, or the average amount a player spends on a device.~~

~~Check or credit card purchases.~~

- ~~—(4) Operators may purchase goods and services from manufacturers or distributors when paid for by checks, or credit card issued by a state and/or federally regulated financial institution that meet the requirements of WAC 230-12-350.~~

~~Exceptions.~~

- ~~—(5) All transactions between manufacturers or distributors and tribal governments or companies certified to manage class III gambling activities operated under a tribal/state compact are exempt from all provisions of this section;~~
- ~~—(6) Charitable or nonprofit organizations licensed to conduct bingo may purchase bingo cards and bingo supplies from distributors and/or manufacturers and receive such without making immediate payment if payment is made, by check or cash, no later than thirty days after delivery of the product.))~~



Rule Up For Discussion

Proposed Repealer of

WAC 230-12-340

Sale of gambling equipment, devices, supplies, paraphernalia, and related services—Authorized transactions.

ITEM 13 (a) on the June 16, 2006, Commission Meeting Agenda.	Statutory Authority 9.46.070
Who proposed the rule change?	
Staff, on behalf of the Recreational Gaming Association.	
Proposed Change	
<p>The proposed rule change would remove restrictions on manufacturers and distributors which currently prohibit them from selling gambling equipment and services to operators on credit.</p> <p>It will apply the same rules relating to the purchase of equipment on credit now in place between manufacturers and distributors to operators.</p>	
History of Rule	
<p>Currently, manufacturers and distributors must not offer credit to operators in the sale of gambling equipment, devices, related supplies or paraphernalia, and services. Manufacturers must conduct all sales to operators on a cash basis. Cash basis means full payment is received by the seller on or before actual delivery of the product or service to the operator.</p> <p>WAC 230-12-340 was amended effective October 10, 2005, to allow credit at the manufacturer and distributor level. Prior to then, the use of credit was prohibited in the sale of gambling equipment, devices, related supplies or paraphernalia, and services. As such, the agency is no longer involved in monitoring debt for manufacturers.</p> <p>At the September 2005, meeting, the Commission asked staff to look into removing credit restrictions between operators and distributors/manufacturers.</p>	
Impact of the Proposed Change	
<p>This change will consistently apply the rules relating to the purchase of equipment on credit and allow credit for commercial operators.</p> <p>Operators would be able to purchase equipment, services and supplies on credit.</p> <p>Currently, rental and leasing fees must be paid up front. Repealing this rule will allow fees to be based on a percentage of actual gambling revenue. Currently, we only allow this for card room management contracts and amusement games.</p> <p>Fees based on a percentage of actual gambling revenue will still be prohibited for nonprofit operators under RCW 9.46.120(2) and WAC 230-20-244.</p>	
Regulatory Concerns	
<p>Gambling regulatory agencies in New Mexico, Idaho, Oregon and Alaska were contacted to determine if they allowed credit to operators.</p> <ul style="list-style-type: none"> • New Mexico and Oregon gambling regulations don't address credit. They consider it a business decision. • Pull-tab operators in Idaho and Oregon buy directly from the State and are billed on a three week 	

cycle by Electronic Funds Transfer.

- Operators in Alaska are allowed up to thirty days credit to pay for pull-tabs.

Staff have no regulatory concerns allowing credit between operators and distributors/manufacturers.

Resource Impacts

None.

Policy Consideration

Currently, pull-tab operators must pay cash for pull-tab products. This rule change would allow pull-tab games to be purchased on credit.

Stakeholder Statements Supporting the Proposed Rule Change

At the April 2006, Commission meeting, Dolores Chiechi, representing the Recreational Gaming Association, testified in support of this rule change.

Stakeholder Statements Opposing the Proposed Rule Change

None.

Licensees Directly Impacted By the Change

Manufacturers, distributors and operators.

Letters were sent to all manufacturers and distributors notifying them of the proposed rule change. The letters are dated April 3, 2006, and April 10, 2006 (blue paper).

Staff Recommendation

Further discussion.

Proposed Effective Date for Rule Change

January 1, 2007.

REPEALED SECTION:

~~((WAC 230-12-350 Use of checks and credit cards to purchase gambling equipment, products, and services—Restrictions.—~~

~~Checks and credit cards may be used by licensed operators and distributors to purchase gambling equipment, devices, related supplies or paraphernalia, and services in lieu of cash under the following conditions:~~

- ~~—(1) Checks and credit cards must be drawn on the licensee's business account: Provided, That personal checks and credit cards drawn on the account of an owner, partner, or officer or substantial interest holder of a corporate licensee may be accepted.~~
- ~~—(2) Checks received by distributors from operators must be negotiable and dated on or before the delivery date of the product or service. Checks shall not be postdated.~~
- ~~—(3) Checks shall not be held and must be presented for payment at the manufacturer's or distributor's bank within the prescribed time frames. Failure to present checks within the prescribed time period shall be prima facie evidence of extension of credit to the drawer licensee by the manufacturer or distributor. Prescribed time frames are as follows:~~
 - ~~—(a) Checks received from operators shall be deposited within ten calendar days after the date the product or service was delivered; and~~
 - ~~—(b) Checks received from distributors shall be deposited within ten days of the date received or, if delivered by mail, thirteen days from the postmark of the envelope containing the payment.))~~



Rule Up For Discussion

Proposed Repealer of

WAC 230-12-350

Use of checks and credit cards to purchase gambling equipment, products, and services—Restrictions.

ITEM 13 (a) on the June 16, 2006, Commission Meeting Agenda.	Statutory Authority 9.46.070
Who proposed the rule change?	
Staff, on behalf of the Recreational Gaming Association.	
Proposed Change	
<p>This proposed repealer will remove restrictions on operators' use of checks and credit cards to purchase gambling equipment, products, and services.</p> <p>It will apply the same rules relating to the purchase of equipment using checks and credit cards now in place between manufacturers and distributors to operators.</p>	
History of Rule	
<p>The current rule puts restrictions, such as limiting the type of account a check or credit card from an operator may be drawn on, and requiring all checks to be deposited within ten days of service or receipt of product.</p> <p>This repealer will remove all restrictions on checks and credit cards for operators when purchasing gambling equipment, products, and services.</p>	
Impact of the Proposed Change	
<p>Operators will now be able to purchase equipment, services and supplies on credit, by using a credit card or writing a check.</p> <p>This change will consistently apply the rules relating to the purchase of equipment on credit and allow it for commercial operators. It will be the distributors' responsibility to determine whether to allow a licensed operator to write a check to them or use a credit card.</p>	
Regulatory Concerns	
None.	
Resource Impacts	
None.	
Policy Consideration	
None.	
Stakeholder Statements Supporting the Proposed Rule Change	
None.	
Stakeholder Statements Opposing the Proposed Rule Change	
None.	
Licensees Directly Impacted By the Change	
Manufacturers, distributors and operators.	
Staff Recommendation	
Further discussion.	
Proposed Effective Date for Rule Change	
January 1, 2007.	

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April 24, 2006

Ms. Susan Arland
Rules Coordinator
Washington State Gambling Commission
P.O. Box 42400
Olympia, WA 98504-2400

Re: Petition to Amend WAC 230-02-412

Dear Ms. Arland:

I respectfully request that the Gambling Commission amend WAC 230-02-412. The current rule with the amendment requested is attached as Exhibit "A" hereto. This rule has been the subject of review by the staff as part of the Rules Simplification Project for the past year. Staff had recently recommended amendment of this rule as requested in this petition. I am unclear as to the reason for delay to date but submit that this rule should be amended now without further delay.

Introduction: This petition seeks to limit the extent to which chips and playing cards are defined as gambling equipment and therefore subject to commission regulation and potential criminal prosecution for use or misuse.

Preliminarily, it is important to remember that gaming chips and playing cards are sold in many, many retail outlets in Washington including such diverse establishments as Bartell Drugs, Costco and Macy's to name but a few. The market for chips, in particular, has literally exploded in the last few years with the popularity of poker arising out of television coverage and internet gambling sites. Most of the chips that are now being sold (for home game use) are manufactured outside of the United States.

Background: As currently drafted, the rule covers all "gaming chips and cards" which were used to "conduct card games, fund-raising events, recreational gaming activities, or Class III gaming activities". As such, WAC 230-12-335 precludes licensees from selling gambling equipment

Ms. Susan Arland

April 24, 2006

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including gaming chips and cards except to other licensees, manufacturers or distributors¹ and under strictly specified conditions.

The practical effect of the current rule, if enforced, is that licensees who cease operation or issue new chips or cards with a change in logo or artwork would be precluded from selling their unusable chips and cards. That is, no other licensee could use logo chips or cards other than their own.

In addition, the rule is, for all practical purposes, unenforceable because it would literally prohibit patrons of licensees from buying chips, removing them from the premises and selling them to others. This aspect of the current rule is what stimulated this petition because, as will follow, casino chip collectors have been warned that their acquisition, purchase and sale of chips for their collections could be subject to commission enforcement activity. Casino chips collectors and casino chip sales² number in the tens of thousands. The Casino Chip and Gaming Token Collectors Club, of which I am a member, is devoted to the hobby with members from around the world.

To be more specific regarding enforcement issues, an investigator from the commission's Tacoma office recently contacted an eBay seller and warned that person that sales of casino chips from Washington state could be construed to violate the subject rule with attendant consequences. A common way for chip collectors to expand their collections is to "harvest" chips from their local casinos and card rooms and trade (or sell) chips with other collectors who do the same around the country. Even customers who are not collectors frequently put a chip or two in their pocket as a souvenir and these chips often appear, sometimes years after, in estate or auction sales along with all kinds of other memorabilia. Strictly construed, the current rule would make all such activity a violation.

The current rule also operates to the detriment of Washington state licensees. A licensee who goes out of business, or replaces chips (or cards) with a new issue, has no way to dispose of the old chips and cards without running afoul of the commission's rule as currently drafted. It is doubly unfortunate for those licensees who end up going out of business. They have made a significant investment in cards and chips which they ought to be able to recoup, in part, by selling their inventory to collectors and dealers.

Collectors would also be losers if the current rule were, or could be, enforced. Chip collectors, like those who collect coins or stamps, see casino chips as unique and, to some degree, as objects of art which ought not be secreted away or destroyed for no apparent reason.

Other Issues

Some concerns have been raised about allowing obsolete chips and cards to be sold to the public. Those include issues of redemption and security. Redemption issues are handled by the

¹ Chips and cards which bear the logo of the original licensee are, of course, of no use or value to other licensees, distributors or manufacturers.

² As of the date of this letter, eBay has over 16,000 listings of collectible casino chips for sale! Of those, more than one hundred are listings for the sale of casino chips from establishments in Washington state, current and obsolete.

Ms. Susan Arland

April 24, 2006

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licensees who generally post notice when chips are being replaced with new chips. And, of course, there is no issue of redemption for casinos or card rooms that are closed and out of business.

Some have expressed a concern about security, i.e. the chance that chips from one licensee could somehow be modified and then used or cashed elsewhere. Security in the modern age is not a problem. The two major U.S. casino chip makers, Chipco and IGT³, have extremely sophisticated methods⁴ of insuring that casino chips from one property cannot be altered and used elsewhere. Indeed, their ability to insure security is a significant factor in their successful efforts to secure approval from the state of Washington and other jurisdictions to manufacture and sell casino chips for use by licensees.

Revisions to this rule have been under consideration by the staff of the commission for over a year now. During the course of those reviews, as part of the rules simplification program, some collectors have objected to revising the rule along the lines proposed in this petition because, they contend, doing so would devalue their collections. Most collectors of casino chips, including the author, want more, not less, access to collectibles and view this issue in a less self-serving manner. But, protecting the value of some individual collections is not, and should not be, a concern for the gambling commission—such concerns have nothing to do with the stated mission of the commission, i.e. to “protect the public by ensuring that gambling is legal and honest.”

Conclusion: I urge the commission to move forward to amend WAC 230-02-412 without further delay. I stand ready to provide whatever other information I can, in person or otherwise, and look forward to a favorable response to this petition.

Sincerely,

Donald L. Logerwell

³ IGT and Chipco are the only manufacturers licensed by the state of Washington.

⁴ Chips have distinct colors, mold patterns, edge spots, inserts and, in some instances, ultraviolet markings which can be seen only under a black light.

Exhibit "A"

Proposed amendment to WAC 230-02-412. New language underscored.

WAC 230-02-412
Gambling equipment defined.

For purposes of this title, gambling equipment means any device, gambling related software, expendable supply or any other paraphernalia used in conjunction with or to facilitate gambling. Gambling equipment includes, but is not limited to:

...

(7) Devices and supplies used to conduct card games, fund-raising events, recreational gaming activities, or Class III gaming activities, as defined in the Indian Gaming Regulatory Act at U.S.C. 25 chapter 29 § 2703 and in tribal-state compacts, including, but not limited to:

(a) Gaming chips with a house name or logo for use in a currently licensed, or Class III gaming facility. However, chips will not be considered gambling equipment if they are discontinued and replaced by new chips with a different color, logo, or artwork;

(b) Cards with a house name or logo for use in a currently licensed, or Class III gaming facility. However, cards defaced by a card room operator are not considered gambling equipment. For purposes of this rule, "defaced" means permanently altered so the cards are easily identifiable as different from other cards in play. For example, cards can be defaced by drilling a hole through the deck, clipping the corner(s) or sides of a deck;

—

Ms. Susan Arland
April 24, 2006
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May 18, 2006

Ms. Susan Arland
Rules Coordinator
Washington State Gambling Commission
P.O. Box 42400
Olympia, WA 98504-2400

Re: Petition to Amend WAC 230-02-412

Dear Ms. Arland:

Thank you for taking the time to speak with me again regarding the status of the petition I filed with the Commission on April 24, 2006. As you know I was surprised to read the "Rules Under Review" section of the commission website indicating that the staff apparently does not support the rule change I proposed in my petition. What I proposed is precisely what the staff had previously suggested and the language I used was written by the staff after several months of review and consideration of this issue. I expected that the rule would be revised as the staff had previously recommended and only filed the petition because I understood that the revision to this rule was being delayed by other pending rule revisions.

I will comment on some specific concerns subsequently but, before I do, I want to address a larger issue—respect for the law. The current rule is, as will follow, both unenforced and unenforceable. **Rules, regulations and laws that are not enforced and cannot, as a practical matter, be enforced create disrespect for the law and for our legal system.** The commission is an integral part of that legal system and should be concerned that what it does generates respect, not disdain, for its rules, for the law and for our legal system.

As currently written, the rule is unenforceable. On its face, it applies to all "gaming chips" and "cards" that can be used for "card games, fund-raising events, recreational gaming activities . . ." without regard to the location of the event or the identity of the players or host. So, when Bartell Drug and Costco sell "gaming chips" and "cards" for use in Uncle Charlie's neighborhood poker game, those retailers are in violation and subject to the criminal provisions of RCW 9.46.160 and subject to "forfeiture of the corporate charter".

Similarly, as I pointed out in my petition, there are hundreds of Washington state casino and card room chips being sold daily on eBay, some from currently licensed and operating facilities,

others from casinos and card rooms that have long since closed. As written, the rule could be construed to make all of these individual sellers susceptible to some kind of legal action albeit outside the jurisdiction of the commission..

You mentioned that someone on the staff raised the issue of chips from Freddie's Club, Auburn (closed some time after the death of Fred Steiner and now the Iron Horse) being taken to Freddie's Club in Fife. I have attached to this letter color scans of the \$1 and \$5 chips⁵ from both of those locations. They are all, as one can readily see, completely and visibly different and purposely so. Freddie's Club management⁶ and their chip suppliers made sure that the chips for the different locations were unique, consistent with the overall security precautions that exist in the industry. The idea that chips from Auburn could be cashed in Fife is, I suspect, based solely on someone's suspicion but not, as you can see, based upon either fact or realistic possibility. If, in fact, this has happened I'd be most interested, as would I dare say the commissioners, in the details.

You also said that there were concerns that revising the rule as I've proposed would lead to risk of counterfeiting. I am at a total loss to understand that concern. You say that someone suggested that chips from a closed facility could somehow be modified and cashed at another but such a hypothesis is totally fanciful—you need only check with the two Washington licensed chip manufacturers, Chipco and GPIC, to understand how they use colors, inserts, molds and other unique elements of design and manufacturing to prevent counterfeiting. And, as with the Freddie's Club hypothesis, I'd also like to know if there have been any such documented instances of counterfeit Washington casino chips from a closed licensee being redeemed or played at one that is open for business.

As you know, I filed this petition on behalf of chip collectors like myself and on behalf of a client who is looking to purchase and resell obsolete chips from Washington licensees. We see the destruction of obsolete chips as a waste and for no legitimate regulatory purpose.

I look forward to receiving the final recommendation of the staff which will be presented to the commissioners. Though I hope that their views will coincide with mine and recommend granting this petition, should they adhere to this recent change and recommend against it, I stand

⁵ To determine what kinds of chips these two clubs had I referred to the standard collector's guide, *The Casino Chips of Washington State, 2nd Edition* (Pheasant Ridge Publishing, Moscow, ID 2003). Freddie's in Fife uses the two Chipco \$1 and \$5 shown in the attachment. The Auburn club also had a Chipco \$1 and a Chipco \$5 as shown which are quite obviously different.

⁶ To my understanding, the Freddie's Clubs in Renton, Auburn and Fife were owned and operated by different partnership groups with the late Fred Steiner as the common member. It is, therefore, understandable that they would insist on different chips at each facility. The Auburn partners would not have wanted chips from Fife or Renton presented at their facility and vice versa.

Ms. Susan Arland

April 24, 2006

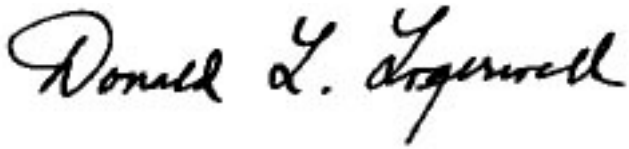
Page 7 of 9

ready to attend the June 16 meeting in Walla Walla to address the commission when this petition is considered.

In closing, I want to emphasize that the stated goal of the Washington State Gambling Commission is to insure that gambling is "legal and honest." Restrictions on the sale and distribution of obsolete logo chips serve no regulatory purpose and distract from that goal wasting valuable time and staff⁷ resources that could be better used elsewhere.

I thank you for your assistance and cooperation as I pursue this issue.

Sincerely,

A handwritten signature in black ink that reads "Donald L. Logerwell". The script is cursive and fluid, with the first name "Donald" being the most prominent.

Donald L. Logerwell

⁷ Indeed, this whole matter came to my attention when one of the field investigators contacted another member of the chip collecting community who was selling obsolete Washington chips on eBay. When I spoke with him I was told he had neither the time nor the inclination to pursue harmless activity like this.

Freddie's Club \$1 and \$5 Chips

Auburn



Fife



Ms. Susan Arland
April 24, 2006
Page 9 of 9



Rule Up For Discussion and Possible Filing

Proposed Amendment to
WAC 230-02-412
Gambling equipment defined.

ITEM 14 (a) on the June 16, 2006, Commission Meeting Agenda.	Statutory Authority 9.46.070 & 9.46.0282
Who proposed the rule change?	
Don Logerwell.	
Proposed Change	
<p>The Petitioner requests the following changes to this rule:</p> <ol style="list-style-type: none">1. Clarify that only logo cards and logo chips used in a currently licensed or class III facility be defined as gambling equipment.2. Exclude logo chips from the definition of gambling equipment if they are sold to players for use in a gambling activity and the player removes the chips from the licensed premises, or if the chips are replaced by new chips with a different color, logo, or artwork.3. Exclude logo cards from the definition of gambling equipment if they are defaced (for example, a hole drilled through the deck or the corners clipped).	
History of Rule	
<p>Prior to 2000, the definition of gambling equipment was located in licensing rules for manufacturers and distributors. This rule was created in 2000 and combined the definitions of gambling equipment into one rule. This new definition was adopted as part of a rules package to clarify that only licensees could legally possess gambling equipment. The intent of this rule is to control equipment used in licensed gambling activities and ensure it is not used in illegal activities, or in a way that could defraud the public.</p> <p>House-banked and Class F card rooms are required to use logo cards and logo chips. If the card room closes or changes its logo, their logo cards/chips must be sold to a licensed manufacturer or distributor. An alternative to selling logo cards/chips back to a manufacturer or distributor is to destroy the logo cards/chips. Card rooms must have written procedures in their internal controls for destroying logo chips/cards. These internal controls are approved by staff.</p> <p>Logo Cards: Because cards are handled so much by players and dealers during games, the decks soon show wear and are removed from play. As soon as cards are removed from play, they are “defaced or cancelled” (a black line drawn on the cards). Licensed security personnel are then responsible for the destruction of the cards. Common destruction methods include drilling a hole through the deck or shaving off the corners of the deck. Once the cards are destroyed, they are no longer considered gambling equipment and are often donated to senior centers or given away.</p> <p>Logo Chips: Card rooms rarely change out their logo chips. When logo chips show wear or are accidentally broken, licensees usually destroy them by breaking them into pieces with a hammer. Card rooms must maintain a chip destruction log in which they include the method of destruction.</p> <p>The increased popularity of poker has made logo cards/chips popular collector items. Staff received several inquiries from collectors wanting to know if it is okay to purchase logo cards/chips. During the past year, staff has researched the possibility of removing logo cards/chips which are no longer in use,</p>	

because a licensee changes its logo or closes its business, from the definition of gambling equipment.
Impact of the Proposed Change
A logo chip is still gambling equipment, even if a card room closes or changes its logo. Regulatory and policy implications may preclude removing logo chips and cards from the definition of gambling equipment. By keeping logo chips and cards in the definition of gambling equipment, the Commission retains regulatory jurisdiction to determine whether individuals are illegally possessing or using gambling equipment.
Regulatory Concerns
RCW 9.46 states the Gambling Commission shall provide strict control and regulation over gambling in the State. Logo cards and chips are vital components of card games and strict oversight is needed to ensure they are not used in illegal activities, or in a way that could defraud the public. Currently, methods for destroying logo cards/chips must be outlined in a card room's internal controls.
Staff checked with New Jersey and Nevada and found their rules about the destruction of chips to be more restrictive than our rules.
New Jersey has rules requiring licensees to notify the Gaming Commission, in writing, of the date and location of where logo chips will be destroyed, the denomination, number and amount of value of the chips to be destroyed. They must also describe how they will destroy the chips. The destruction must be carried out in front of two licensed casino employees. All chip destruction information must be recorded and maintained by licensees.
Nevada approves gaming chips and has kept a sample of each chip it reviews since the 1970's. If a licensed gaming establishment is going to sell or close, the gaming chips must go through a redemption process to make an effort to cash-in the chips. After the redemption process has concluded, the licensee must obtain permission from the Gaming Board to destroy the chips. The normal process for destroying chips is by shredding. The chips cannot be buried, burned, put into cement or acrylic or similar materials. It is unlawful for a licensee to sell or retain chips after the location is no longer in operation. If some chips are still in circulation because players walked out of the casino with a few in their pockets, Nevada is not concerned when they are retained as a souvenir. However, if that person redeems, or tries to redeem, a chip, they may be committing a felony in Nevada, depending on their knowledge of the gaming chip and their intent. If someone tries to redeem a chip that was reported as destroyed, they may be in violation of Nevada law if they retain the chips or attempt to sell or redeem them. Nevada's biggest concern is with fraud and the ability for counterfeit chips to be copied from existing chips.
Resource Impacts
As mentioned above, logo chips have become popular collector items. Staff considers the facts and circumstances of each situation that arises involving logo chips that are not in the possession of a licensee. At times, players take a chip from a card room as a souvenir for sentimental reasons and there is no intent to defraud the public or a licensee. This is not a regulatory concern for staff. If a person is selling logo chips as a commercial business they would need to get a license to sell the chips. If someone attempts to redeem chips that are from a card room that has closed, criminal intent is involved and we would investigate. Only licensed manufacturers and distributors are authorized to sell logo chips and cards.
Policy Consideration
None.
Stakeholder Statements Supporting the Proposed Rule Change
None.

Stakeholder Statements Opposing the Proposed Rule Change
<p>Notice to the public was published in the Washington State Register last year advising that staff was reviewing the possibility of removing certain logo chips from the definition of gambling equipment. In response to that notice, seven chips collectors opposed removing logo chips from the definition of gambling equipment stating it would reduce the value of their chip collection (see attached letters).</p>
Licensees Directly Impacted By the Change
House-banked card rooms, manufacturers, and distributors.
Staff Recommendation
Deny the petition.

LAW OFFICES OF
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ANDREA M. BOITANO
JOAN K. MELL
ANGELA L. OLSEN

May 4, 2006

RECEIVED

MAY 05 2006

**GAMBLING COMMISSION
COMM & LEGAL DEPT**

Via Facsimile (360) 664-0229

Paul Goulding, Assistant Attorney General
Office of the Attorney General
1125 Washington Street
Olympia, WA 98504

Re: ZDI Gaming, Inc.

Dear Mr. Goulding:

This letter follows our discussions regarding our clients' positions following the Administrative Law Judge ruling in the above referenced matter. It is my understanding that your client has not yet decided whether it intends to appeal. I have advised that my client prefers to not appeal at this time. Instead, my client would like to work with the Commission Staff to propose a rule to the Commission that would allow approval of the ZDI technology by recognizing in rule that a cash card is a cash equivalent. Obviously, the Staff has a rule proposed as does Mr. Harmon. It makes little sense to file a whole new petition. It makes a whole lot of sense to bring all the stakeholders together to find some agreement on the viability of cash card technology in the gaming industry. Such technology is operating in every other context, and it seems silly to pretend it has no application to the restaurant and gaming industry. You have advised that the Commission Staff will not work on a joint rule proposal. Thus, my client is left with pursuing a rule change without Staff input or cooperation. Attached to this correspondence is the rule change proposed by ZDI, which will be filed today for consideration at the June hearing.

Please advise your client that ZDI intends to pursue attorney's fees and costs associated with continued denial of its upgrade in the event this matter proceeds. A window of opportunity may exist at this time, although my client has yet to approve such a proposal given the Staff's current position, to fully and finally resolve this dispute without recovery of fees and costs. Given the prevailing opinion in favor of ZDI on the gambling device issue, which is consistent with all published analyses, the Staff assumes significant risk on appeal. I can assure you any adverse determination by the Commission will be appealed by my client, driving the costs and time commitment up exponentially. Approval of the ZDI upgrade with cash card technology for low tier winners does not appear to warrant ongoing litigation. There is no evidence that any public policy is served by such a position. It seems everyone could win in this matter if the

Mr. Paul O. Goulding
May 4, 2006
Page 2

Staff would reconsider its current refusal to resolve this action. I would ask that the Staff consider including the proposed WAC 230-30-070 amendment as an amendment to its proposed rule change scheduled for hearing in July.

Very truly yours,

MILLER, QUINLAN & AUTER, P.S., INC.



Joan K. Mell

**RECEIVED****MAY 05 2006****GAMBLING COMMISSION
COMM & LEGAL DEPT****PETITION FOR ADOPTION, AMENDMENT, OR REPEAL
OF A STATE ADMINISTRATIVE RULE (RCW 34.05.330)**

The Office of Financial Management (OFM) has adopted this form for members of the public who wish to petition a state agency to adopt, amend, or repeal an administrative rule (regulation). Full consideration will be given to a petitioner's request. **Please complete the following:**

PETITIONER'S NAME (PLEASE PRINT) ZDI Gaming, Inc., by Joan K. Mell, Miller Quinlan & Auter P.S. Inc.		TELEPHONE NUMBER (INCLUDE AREA CODE) (253) 565-5019	
STREET ADDRESS 1019 Regents Blvd., Suite 204	PO BOX NUMBER	CITY Fircrest	STATE WA
			ZIP CODE 98466
AGENCY RESPONSIBLE FOR ADMINISTERING THE RULE Gambling Commission			

Please submit completed and signed form to the "Rules Coordinator" at the appropriate state agency. The agency will contact you within 60 days.

Check all that apply below and explain on the back of this form with examples. Whenever possible, attach suggested language. You may attach other pages if needed.

☐ 1. NEW: I am requesting that a new WAC be developed.

I believe a new rule should be developed.

- ☐ The subject of this rule is:
☐ The rule will affect the following people:
☐ The need for the rule is:

☒ 2. AMEND: I am requesting a changing to existing WAC 230-30-070; 230-12-050

☐ 3. REPEAL: I am requesting existing WAC _____ be removed.

I believe this rule should be changed or repealed because (check one or more):

- ☐ It does not do what it was intended to do.
☐ It imposes unreasonable costs.
☐ It is applied differently to public and private parties.
☐ It is not clear.
☐ It is no longer needed.
☐ It is not authorized. The agency has no authority to make this rule.
☐ It conflicts with another federal, state, or local law or rule. Please list number of the conflicting law or rule, if known:

☐ It duplicates another federal, state or local law or rule. Please list number of the duplicate law or rule, if known:

☒ Other (please explain): The accounting controls inherent to cash card technology provide a regulatory enhancement to an area of gaming vulnerable because it is an easily corrupted cash system. Currently, there is no accounting for the cash exchange required to play pull-tabs. Changing the rules to specifically authorize the use of cash card technology in pull-tab gaming for low-tier winners (under \$20.00) provides a meaningful regulatory opportunity without expanding gaming. (See attached staff testimony.) Gambling Commission Staff has already approved use the use of cash card technology for the purchase of pull-tabs and other cash equivalents such as gift certificates, pull-tabs and gambling chips to be awarded as prizes. (See attached e-mails and field operation rule interpretation.) The amendments proposed in this request would update the rules to be in compliance with actual practice in the field. In fact, the Gambling Commission Staff has proposed the precise amendment included in this request to WAC 230-12.050. The additional requested amendment to WAC 230-30-070 is necessary to ensure the regulatory controls apply to not only the purchase of pull tabs, but to the awarding of low-tier prizes as well. Use of cash card technology in conjunction with pull-tab dispensing equipment does not transform the approved equipment into prohibited gambling devices because the technology does not alter the paper pull-tab, which controls the prerequisite "element of chance." (See attached ALJ opinion.) The continued viability of commercial stimulants such as pull-tab gaming depends upon innovation, such as gift card/cash card technology.

PETITIONER'S SIGNATURE

DATE

5-7-06

WAC 230-30-070

Control of prizes — Restrictions — Bonus prizes — Displaying — Procedures for awarding.

Punch board and pull-tab prizes shall be closely controlled to ensure players are not defrauded.

(1) All prizes from the operation of punch boards and pull-tabs shall be awarded in cash, gift certificate, or in merchandise. Any cash prize of twenty dollars or less may be awarded on a gift card.

No licensee shall offer to pay cash in lieu of merchandise prizes which may be won.

(2) Additional chances on a punch board or pull-tab game may not be awarded as a prize. Provided, That prizes may involve the opportunity to advance and win a larger prize on the same punch board or pull-tab game as set forth in subsection (4) of this section.

(3) A bonus prize is a prize offered in a bonus pull-tab game, defined in WAC 230-30-040(1). A step-up prize is a prize offered on a punch board. The awarding of these prizes involves an immediate, additional opportunity to advance to a section of the game to determine the prize.

(4) On games where players advance, the bonus or step-up prizes may not be less than the highest prize available, which might otherwise have been won by the punch or pull-tab for which the opportunity was awarded. Each punch board or pull-tab game offering bonus or step-up prizes must clearly indicate on its flare the terms and conditions under which the bonus or step-up prize may be won, including the amount of the bonus or step-up prize.

(5) The licensee shall display prizes so that a customer can easily determine which prizes are available from any particular punch board or pull-tab series or device operated or located upon the premises. In addition, the following requirements apply.

(a) Merchandise prizes shall be displayed as follows:

(i) In the immediate vicinity of the punch board or pull-tab series and in plain view: Provided, That games that offer merchandise prizes that are "surprises" may be wrapped in some way so players are unable to identify what the prize is until opened;

(ii) If size or space constraints do not allow the prize to be displayed as provided in (a)(i) of this subsection, the merchandise prize may be displayed elsewhere on the premises provided that a specific reference to that actual prize is noted on the flare; or

(iii) If the merchandise prize cannot be displayed on the premises, an accurate description and/or photograph of the prize must be displayed in plain view on or immediately adjacent to the flare.

(b) Cash prizes shall be clearly represented on the prize flare;

(c) Combination cash and merchandise prizes must meet the requirements of both (a) and (b) of this subsection;

(6) The following procedures apply to the removal of prizes from the game flare and the presentation of prizes to winning players:

(a) Upon determination of a winner of a merchandise prize, the licensee shall immediately remove that prize from the flare and present the prize to the winner upon demand;

(b) Upon determination of a winner of any cash prize over twenty dollars, or of any merchandise prize with a retail value over twenty dollars, the licensee shall permanently and conspicuously delete all references to that prize from any flare, punch board, or pull-tab dispensing device upon which such reference may appear, and from any other list, sign, or notice which may be posted, in such a manner that all future customers will know the prize is no longer available. On step-up punch boards and bonus pull-tab games, once all opportunities in a section of the flare have been won, all references to prizes no longer available to be won must be deleted on the flare. Operators may correct an inadvertently deleted prize by noting on the flare that such prize is still available. Such reference shall be permanently and conspicuously deleted when the prize is actually awarded. Failure to permanently and conspicuously delete a prize from the flare may result in the director initiating actions to revoke a license for violation of RCW 9.46.190 (defrauding a participant). The prize shall be paid or delivered to the winner only after all reference

to such prize has been deleted from the flare.

(7) Payment of prizes. The licensee must pay or award to the customer or player playing the punch board or pull-tab series all such prizes that are required to be, but have not been, deleted from the flare when the punch board or pull-tab series is completely played out.

(8) Record of winners. When any person wins a cash prize of over twenty dollars or wins a merchandise prize with a retail value of more than twenty dollars from the play of any punch board or pull-tab series, the licensee or licensee's representative shall make a record of the win. The record of the win shall be made in the following manner:

(a) The winners shall be required to print their name and date of birth, in ink, upon the side of the winning punch or tab opposite the winning symbol(s);

(b) The licensee or their representative shall then verify the winner's identity and record the date and initial the winning punch or tab; and

(c) If the pull-tab or punch is constructed or printed in such a manner as to preclude recording the information required in (a) and (b) of this subsection in a legible manner, the licensee may record the required information on a sheet of paper not less than three inches by five inches and staple the winning tab or punch thereto.

(9) Defacing winning punches or tabs. The licensee shall, within twenty-four hours after a winning pull-tab or punch worth more than twenty dollars has been presented for payment, mark or perforate the winning symbols in such a manner that the pull-tab or punch cannot be presented again for payment.

(10) Spindle, banded, or "jar" type pull-tabs played in a manner which awards merchandise prizes only. Pull-tab series which award only merchandise prizes valued at no more than twenty dollars, are hereby permitted to employ schemes whereby certain predesignated pull-tabs are free or the player is otherwise reimbursed the actual cost of said pull-tabs. Flares for spindle-type pull-tabs operated in this manner shall designate the total number of pull-tabs in the series and the total number of pull-tabs designated as free or reimbursable. Free or reimbursable pull-tabs in these types of pull-tab series shall not constitute a prize or prizes nor shall moneys collected and later reimbursed constitute revenue for the purposes of determining gross gambling receipts.

[Statutory Authority: RCW 9.46.070. 00-21-095 (Order 389), § 230-30-070, filed 10/18/00, effective 1/1/01; 98-15-074 (Order 359), § 230-30-070, filed 7/15/98, effective 1/1/99. Statutory Authority: RCW 9.46.070 (5), (6), (11), (14), 97-14-012, § 230-30-070, filed 6/20/97, effective 7/21/97. Statutory Authority: RCW 9.46.070, 9.46.120, 9.46.0273, 9.46.310 and 34.05.313. 96-24-006 (Order 305), § 230-30-070, filed 11/21/96, effective 1/1/97. Statutory Authority: RCW 9.46.070 (1)-(4), (7), (8), (11), (12), (14), (20) and 9.46.110 (3), (4), 95-23-109 and 95-24-048, § 230-30-070, filed 11/22/95 and 11/30/95, effective 1/1/96. Statutory Authority: RCW 9.46.070. 94-23-094, § 230-30-070, filed 11/17/94, effective 1/1/95. Statutory Authority: Chapter 9.46 RCW. 91-21-053 (Order 228), § 230-30-070, filed 10/15/91, effective 11/15/91. Statutory Authority: RCW 9.46.070. 90-24-005 (Order 218), § 230-30-070, filed 11/26/90, effective 12/27/90. Statutory Authority: RCW 9.46.070 (11) and (14). 90-11-058, § 230-30-070, filed 5/15/90, effective 6/15/90. Statutory Authority: RCW 34.05.220(4), [34.05] 230 and 9.46.070 (11) and (14). 90-05-032 (Order 205), § 230-30-070, filed 2/14/90, effective 3/17/90. Statutory Authority: RCW 9.46.070 (11) and (14). 89-17-056 (Order 196), § 230-30-070, filed 8/15/89, effective 9/15/89. Statutory Authority: RCW 9.46[.070] (8), (14). 87-17-052 (Order 171), § 230-30-070, filed 8/18/87. Statutory Authority: Chapter 9.46 RCW. 87-03-023 (Order 164), § 230-30-070, filed 1/13/87. Statutory Authority: RCW [9.46.]070 (1), (2) and (11) and [9.46.]110. 85-21-046 (Order 154), § 230-30-070, filed 10/14/85. Statutory Authority: RCW 9.46.070 (8), (11) and (14). 85-03-024 (Order 142), § 230-30-070, filed 1/9/85. Statutory Authority: RCW 9.46.070 (8) and (11). 82-01-065 and 82-03-033 (Order 115 and 116), § 230-30-070, filed 12/18/81 and 1/18/82; 81-21-033 (Order 114), § 230-30-070, filed 10/15/81. Statutory Authority: RCW 9.46.070(10). 79-09-029 (Order 91), § 230-30-070, filed 8/14/79; Order 43, § 230-30-070, filed 11/28/75; Order 29, § 230-30-070, filed 1/23/75; Order 27, § 230-30-070, filed 11/15/74; Order 23, § 230-30-070, filed 9/23/74; Order 14, § 230-30-070, filed 3/27/74; Order 12, § 230-30-070, filed 2/14/74; Order 5, § 230-30-070, filed 12/19/73.]

WAC 230-12-050

Extension of credit, loans, or gifts prohibited — Limited exception.

No licensee, member or employee thereof shall extend credit, make a loan, or grant a gift to any person playing in an authorized gambling activity, or which enables a person to play in an authorized gambling activity.

Gifts prohibited -- Exceptions.

(1) Gifts are items licensees give away to its customers and are not connected to gambling activities regulated by the commission. Licensees shall not offer gifts in conjunction with gambling activities, with the following exceptions:

- (a) Promotions are allowed as authorized by WAC 230-12-045;
- (b) Transportation services provided to and from gambling activities;
- (c) Free or discounted food, drink or merchandise may be provided under the following conditions:
 - (i) The actual cost of any individual item may not exceed five hundred dollars;
 - (ii) The merchandise shall not be traded back to the licensee for cash or be used to further participate in an authorized gambling activity;
- (d) For each individual gift with an actual cost over one hundred dollars, charitable and nonprofit organizations shall prepare and maintain a written record with the following information:
 - (i) How the recipients of the gifts were selected;
 - (ii) The number of gifts awarded; and
 - (iii) The total cost of each gift given.

Credit and loans prohibited -- Exceptions.

(2) The consideration required to participate in the gambling activity shall be collected in full, by cash, check, gift certificate, gift card, or electronic point-of-sale bank transfer, prior to participation, with the following exceptions:

Punch boards/pull-tabs.

(a) The consideration paid for the opportunity to play a punch board or pull-tab series may be collected immediately after the play is completed only when such consideration is ten dollars or less;

Charitable/nonprofit organization's billing system for members.

(b) When a bona fide charitable or bona fide nonprofit organization conducting any of the activities authorized by chapter 9.46 RCW or commission rules has a regular billing system for all of the activities of its members with such organization, such billing system may be utilized in connection with the playing of any of the activities authorized hereunder if:

- (i) The playing of such activity is limited to regular members of such organization who have become regular members prior to the commencement of such activity and whose qualifications for membership were not dependent upon, or in any way related to, the playing of such activity; and
- (ii) The director has given prior written consent to the use of such billing system in connection with the conduct of activities authorized under these rules.

Raffle tickets purchased with credit cards.

(c) Charitable or nonprofit organizations utilizing credit cards, issued by a state and/or federally regulated financial institution, for payment to participate in raffles.

303), § 230-12-050, filed 11/21/96, effective 12/22/96. Statutory Authority: RCW 9.46.070. 94-13-099 (Order 253), § 230-12-050, filed 6/15/94, effective 7/16/94. Statutory Authority: RCW 9.46.070 (11), (14) and 9.46.0218 [9.46.0281]. 89-05-024 (Order 186), § 230-12-050, filed 2/13/89; Order 51, § 230-12-050, filed 4/30/76; Order 15, § 230-12-050, filed 4/17/74; Order 5, § 230-12-050, filed 12/19/73.]

Positive Points of Cash Card Technology
(Rebuttal to Day Briefing Materials)

- Cash card technology is common, and is not novel to gaming.

A survey released by ValueLink, which creates gift cards for companies, estimated that in 12 months, 64 percent of American adults (139 million people) either bought or received a gift card, up from just 37 percent in 2002.

See also attached article from the National Restaurant Association.

Cash card technology is regulated under state law, and is referred to as stored value cards. RCW 19.240. Stored value cards retain their value and any value below five dollars must be redeemed by the vendor. RCW 19.240.020(3). Stored value cards are exempt from the Uniform Money Services Act of 2003, a state law that addresses money laundering passed after the federal Bank Secrecy Act. RCW 19.230.020. The market manages the risk of money laundering. The monetary value consumers are willing to invest with any one particular vendor results in low card values. Consumers are not buying cash cards valued at hundreds of dollars.

Of significance, the cash card technology proposed to date works with low tier winners only. A winning pull-tab of more than \$20.00 could not be recognized on a cash card because the cashier is required under current rules to mark off the flare. The ability to accumulate multiple \$19.99 wins on one card is remote given the simple statistical odds of pull-tab gaming with low tier winners. A player committing the time and resources to achieve multiple low tier winners in one day would draw the undesirable attention of the casino owner, who could opt to report the unusual activity. Furthermore, the casino would expect the player to purchase food, beverages or other merchandise from the cash card. The casinos would not be cashing in the card for currency until the balance fell below \$5.00.

The Gambling Commission has been regulating cash card technology since 1998 when it negotiated and approved Appendix X. Class III equipment relies upon the accounting systems approved by the Commission staff. Section 2.3 defines "electronic accounting system" as "A computer system that provides a secure means to receive, store and access data and record critical functions and activities, as set forth in Section 7.0." Section 7.0 sets forth eight separate sections that in essence require the system to generate certain reports for various games, retain specified data, and take some specific security precautions.

In addition to Class III gaming, cash card technology is utilized with Class II gaming equipment, typically characterized as "technological aids" to legal gambling such as bingo and pull-tabs. The use of cash card technology that credits winnings to the card has been approved by the National Indian Gaming Commission, and its use with electronic gaming equipment does not transform the equipment into an illegal gambling device under the Johnson Act/Gambling Device Act. If the Gambling Commission determines use of cash card technology makes the equipment a prohibited gambling device under state law then the Class II gaming equipment on Indian Lands is also prohibited.

The Commission has no authority or legal justification to contradict the federal definition of Gambling Device.

- Cash alternatives are routinely accepted for gaming.

WAC 230-40-552 permits use of vouchers for table games.

Staff has authorized use of chips as a "cash equivalent" for purposes of cashing out pull-tab winnings. See, internal memo attached hereto.

Staff has authorized use of cash cards with pull-tabs. See, internal memos regarding the Buzz Inn.

Gift certificates are used to redeem winnings on pull-tabs. See attached Field Operation Rule Interpretation.

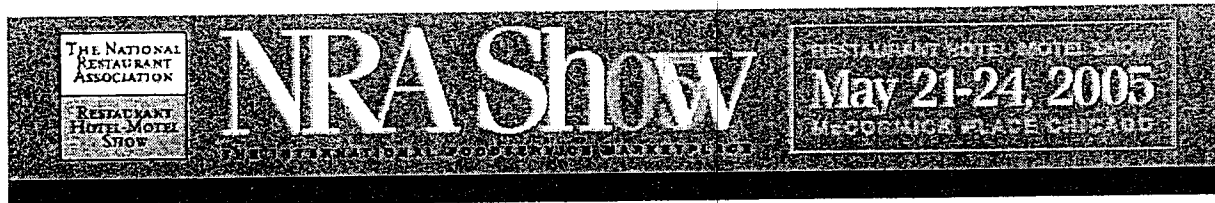
Pull-tabs are used to purchase pull-tabs and credit winners. "Put-back"? See attached testimony of Dallas Burnett.

The important consideration is that cash or a cash equivalent is used, rather than credit. Cash card technology does not cause involve credit.

- Accounting systems are inherent to the cash card technology. The Commission Staff have the discretion to ask for certain reports or retention of data for their examination and records. The technology provides opportunity to staff to improve security and regulatory control. Cash card technology would provide more efficient regulatory oversight, rather than additional oversight. Appropriate regulation is already mandated under the law, but is not currently achieved given limitations on keeping track of the pull-tab activity. WAC 230-30-050 WAC 230-08-025.
- If the federal Bank Secrecy Act is applicable to transactions involving cash cards, then the applicable reporting requirement is an affirmative regulatory control that would benefit the Commission's security goals. Staff's concerns regarding possible criminal activity with cash card technology is inconsistent with its own rule proposal. Money laundering is easier under the staff's proposed rule that would allow use of cash cards to participate in gambling, but not to credit wins. Obviously once the cash is transferred to the card, the money is laundered when the gambling winnings are redeemed, which under the staff rule proposal would occur without any record. A player would buy a cash card, gamble the value of the card, and collect winnings in clean cash. If winnings were credited to a cash card there would be a record of it, and the customer would be expected to redeem the cash value of the card in merchandise. A customer would be reluctant to put high values on a card. Any vendor offering high value cards for low stakes gaming should be held accountable and the record would exist to enforce it. At tribal venues the script system is far more susceptible to money laundering; however it is readily available to the public, with apparently no concerns as the technology is regulated by the

Commission Staff. Questions regarding taxation, reporting, and accountability should be compared to current systems that lack the available accountability inherent to cash card technology. The materials presented do not include a comparative analysis.

- The objection that customers would spend more money on gambling with cash card technology is offered without any supporting documentation of any kind. However, if the proposition is correct, why should the Gambling Commission staff oppose profitable legal gaming? Legal gaming should be successful; otherwise there is no basis to allow the gaming whatsoever. Absent innovations and improvement, the value of gaming as a commercial stimulant is jeopardized. Such a position directly contravenes the policy precedents set forth in the gambling statutes.
- Section II of Attachment "A" page 3 of 6 from the Commission Staff's brief sets forth a novel criterion for determining whether equipment is a gambling device, which is not contained in the law. Apparently the question presented was "Whether the mechanism of placing cash prizes (as presented in the petition) from gambling activities on a gift card[s] creates a gambling device pursuant to RCW 9.46.0241? The answer given was it depends upon whether the mechanism is an "automatic process." No law is cited for this proposition.
- The record in the ZDI Gaming, Inc. matter should be considered and reviewed in its entirety prior to taking any action that would suggest the Commission believes cash card technology makes approved equipment a gambling device. Omitted from the analysis received is the federal position with respect to Class II equipment and the NIGC analysis of "technological aids" to approved gaming. The federal government has already permitted the use of cash card technology with equipment similar to the ZDI submittal, and has determined such equipment is not a "gambling device" under the federal definition. There is no policy basis to interpret the state definition as distinct from the federal definition. Also omitted is any factual summary describing the fact that more than a thousand such devices operate already in this state. The staff's expert on technology, Mr. Dallas Burnett, acknowledges the benefits of cash card technology and contends the ZDI proposal does not present a risk of an expansion of gambling. See attached testimony of Dallas Burnett.



Gift cards becoming a popular option for restaurants, patrons

May 23, 2005 --

Electronic gift and spending cards are quickly becoming a popular payment method and guest-retention tool in restaurants.

Ten years ago, "the purpose [of electronic gift cards] was simply to replace gift certificates" that are easily lost, stolen or damaged, said NRA Show education-session panelist, Karen Larsen, vice president of global marketing and business development for electronic spending-card-maker ValueLink, a First Data company.

Today, Larsen said, gift and spending cards are becoming more of a way of life. An estimated 70 percent of American adults have used an electronic gift card, she said. And as more quickservice restaurants begin offering credit- and debit-card payment options, customers are becoming more acquainted with using plastic in restaurants of all types on a regular basis.

Session panelists said they're also seeing more people using spending, or stored-value, cards. People can add money to these, and use them in lieu of credit cards or cash.

Larsen spoke during a Sunday session at the National Restaurant Association Restaurant, Hotel-Motel Show titled "Value of Growth of Gift/Spending Cards in the Food Service/Restaurant Industry."

Food and beverage giants such as Chipotle and Starbucks offer re-loadable spending cards, for customers who value speedy service and want to avoid trading dollars for change, Larsen said. And because the price is going down, investing in spending cards is becoming more feasible for smaller operations, she added.

From the restaurateur's end, customers using gift or spending cards may end up spending more over time. "When someone gets a card for themselves, it is not uncommon for them to reload it," Larsen said.

Chipotle's Joe Strupp, who joined Larsen for the panel, said the use of cards in his company's 440 stores has "gone gangbusters ... the gift-card program has been extremely [popular]," he said.

Adam De Malignon, sales director for Salt Lake City-based Gift Card Solutions, said today's gift card programs can also help operators capture more data through loyalty initiatives. The electronic card maker, whose clients include Applebees and Auntie Anne's, says his company helps restaurants set up "point systems" and demographic databases for repeat customers.

"There's huge marketing potential with the loyalty program," he said. -- by Marisa Torrieri



reg Thomas

From: Dallas Burnett
 Date: Friday, July 22, 2005 10:07 AM
 To: Amy Blume Hunter
 Subject: ***** Opinion Requested (CLD) *****

History:
 The Pull Tab Inn steakhouse a pull tab licensee, has a gift cash card that is available for their patrons. Patrons can buy drinks, food or other products or consumables with this card or cash in this card for cash. They have in the past allowed purchase of tabs on this card.

Current application:
 Currently we have a submission in the lab, which is a pull tab dispenser/reader. The manufacturer has integrated a gift card/cash system which allows credits to be displayed on the terminal and accumulated or subtracted from the card. Winning tickets under \$20.00 are accepted by the machine, combinations displayed and the patron card account is credited the value of the winning tabs. Furthermore, winning tickets over the \$20.00 win require the operator to interact with the terminal and record information required on the winning tab before crediting the patrons gift cash card.

Applicable statutes:
 AC 230-12-050 (2)
 AC 230-30-070 (1)

Current practices:
 The agency have allowed in the past, gift cards to be used in purchasing pull tabs.
 The agency interpret a gift cash card as a cash equivalent.
 The agency have allowed for winning tabs to be credited back on the card account.
 The agency interpret a gift cash card as a cash equivalent.

Questions:
 1. Can a device be used to pay the player for winning tabs?
 a. Can a device pay by crediting a gift cash card?
 2. Can a device be played using a credit gift card?
 3. Can the same device, which dispenses the pull tab and displays a pull tab, cash a winning ticket?

ET Opinion:
 1. There are no restrictions for this function in statute and the team does not believe it would be an expansion of gambling. It still requires operator interaction for winning tabs over \$20.00.
 a. If we interpret this as a cash equivalent.
 2. If we accept it already.
 3. Same as 1.

Dallas Burnett, CCIA
 Administrator, Electronic Gambling Lab
 Washington State Gambling Commission
 "Protect the public by ensuring that gambling is legal and honest"
 360, 353-3503



WASHINGTON STATE
GAMBLING COMMISSION

Field Operation Rule Interpretation

Question: May an operator use gift certificates to their establishment on a merchandise pull tab game? Yes. However, the will not be included in the calculation for purposes of the 60% payout requirement.

CITE: WAC 230-30-080 – Punchboard and pull-tab series restrictions – Prizes, size of game and location of winners

SUMMARY

Issue:

Licensees want to be able to issue gift certificates as prizes on pull tab games. The issue is how to calculate the 60% minimum payout requirement. The rule allows for licensees to offer merchandise prizes. When calculating the possible 60% payout requirement, the operator uses the amount actually paid by the operator plus 50%. But when issuing gift certificates to their own establishment, there is no way to know what the cost is to the licensee until the certificate is redeemed.

Reasoning:

WAC 230-30-080 says in part, "...total merchandise prizes shall be computed at the amount actually paid by the licensed operator plus fifty percent of that actual cost...". Since the actual cost of the certificates cannot be determined at the time the game is placed out for play, the value of the certificates cannot be used in the 60% payout calculation.

Although it may seem reasonable, there is no basis in the rule to allow the operator to use the face-value of the gift certificates in the 60% payout calculation.

Decision:

Gift certificates from a licensee's own establishment may be used as add-on prizes for a "happy hour" pull tab game as described in WAC 230-30-106(7). These gift certificates may also be used as merchandise prizes for pull tab games but will not be used in the 60% payout calculation.

proved:

Cally Cass
Cally Cass, Assistant Director
Washington State Gambling Commission

Date:

7/22/05

Sonja Dolson

From: Susan Blanchett
Sent: Monday, February 07, 2005 11:23 AM
To: Lisa Salla
Jeannette Sugai; Paul Swortz; Roger Sauve; Sonja Dolson
Subject: Casino chips awarded as P/T prizes?

Thanks for looking into this Lisa. We'll go ahead and tell the licensee they can do this (Roger may have to work with them on the cage "paid out" procedures for the chips).

Thanks again,
Susan B.

From: Lisa Salla
Sent: Monday, February 07, 2005 11:16 AM
To: Susan Blanchett
Subject: FW: Casino chips awarded as P/T prizes?

Susan:

Please read Gary response below. It sounds like this has already been authorized. I have only heard back from one PM, so you can allow the licensee to do it or wait. They have already approved it in the East.

Thanks,

Lisa

From: Gary Drumheller
Sent: Monday, February 07, 2005 10:56 AM
To: Lisa Salla
Subject: RE: Casino chips awarded as P/T prizes?

This issue just came up the other day over here so I had to ask Bill if he wrote this and he said it wasn't him. Anyway, we discussed this exact issue and felt that it is ok as long as the PT area can account for the chips and set up some type of procedure. We looked at this as being no different then cash. We did not think this qualified as a merchandise board since the chips actually have a cash face value already, so it can not be converted to meet our merchandise rule.

Hopefully I answered all the questions!

Gary

-----Original Message-----

From: Lisa Salla
Sent: Monday, February 07, 2005 8:52 AM
To: Greg Thomas; Gary Drumheller; Paul Swortz
Cc: Cally Cass
Subject: FW: Casino chips awarded as P/T prizes?

I have received an inquiry from a supervisor. Please read the e-mail below and let me know if you think we should allow this. Please get your response to me by 2/11/05. The chips would be valued as cash with no mark up as mentioned below.

Have you come across anyone wanting to offer casino chips as prizes on a P/T game. The licensee was talking about treating it like a merchandise board, but I think we'd encounter some problems with valuing the chips (the actual cost x 1.5, versus the face value).

Could the chips be treated as a "cash equivalent" and handled that way? Also; the winner would have the option, upon winning the chips, to either gamble with them or cash them out at the cage. (the licensee would have to work out some cage procedures for their chip reconciliations, but we can cross that bridge later, after we determined if they can do this).

I know you've allowed the "recreational chips" to be awarded as prizes, but this is a little different from that.

1 A I think three. Four if you include Bullseye.

2 Q If you include what?

3 A Bullseye. Which is a dispensing sports card game.

4 Q That was a gambling device?

5 A That was. That was a gambling device.

6 Q And you don't have any kind of belief that this is a huge
7 exponential expansion of gambling with this cash card
8 technology?

9 A No, I don't think it's a huge expansion of gambling, I really
10 don't.

11 Q Did you understand when you were reviewing this equipment
12 that put back in occurs frequently? Do you even know what
13 that means?

14 A Put back in? Probably that they reimbursed the tabs, winning
15 tabs with more purchases, probably.

16 Q More tabs?

17 A Yeah. And there's certain rules and requirements regarding
18 the extension - I think it's probably around the extension of
19 credits WAC. And I'm just - you've got to - I'm just
20 remembering something that I've actually seen in there, but
21 there are certain denominations that you can actually - and I
22 think it's more associated with pull-tabs - or punch boards,
23 excuse me, where you can punch a number of tabs for an
24 extension of credit or something like that.

25 Q So like - the Gambling Commission does treat the winners

1 different than something major --

2 A I think up to a certain value. But obviously they don't do
3 face over \$20 on the flare.

4 Q You recognize that there's some beneficial security
5 advantages, I think we talked about the cash card, but even
6 the technology itself, having the equipment?

7 A Any advancements in technology happen to make - or either
8 expands the activity or increases the ability to investigate
9 the activity. Log files. I mean, who would envision - let's
10 say the card dealing table that they have or card facsimile
11 table, when it deals out cards to do an investigation, you'd
12 normally have to go through security cameras. Well, that's a
13 technology. Every advancement of technology. Now, if it's
14 the electronic facsimile, I can go to the files on my
15 computer system and pull them up and know where the cards
16 were, you know, so that, yeah, any kind of advancements that
17 you make in any type of activity is going to create
18 opportunity to regulate the activity higher or better.

19 Q And that's your purpose; right?

20 A That's one of my purposes, yes, it is.

21 Q And that is what this upgrade by ZDI could do?

22 A You know what, it's a battle within myself over the activity.
23 If it wasn't - like I said, if the statute had read something
24 differently, I would have looked at it differently and
25 recommended differently.

1 Q Because you don't have any fundamental inherent problem, you
2 actually see some advantages to it?

3 A Sure. But I see advantages in a lot of forms of gambling; I
4 mean, it doesn't make it right or wrong.

5 Q The GET team didn't really get into a discussion about the
6 value of pull-tab gaming and innovation in that arena as it
7 pertains to the RCW that approves it as a commercial
8 stimulant, did it?

9 A No. No, we didn't even look at the RCW.

10 Q It looked to me like in the documents that were produced at
11 the time of your deposition that you actually opined
12 initially and sent out an e-mail indicating that the
13 equivalent was approved, for approval?

14 JUDGE GORRELL: And what are we looking at so that
15 the record is clear? Exhibit 19, page eight. Okay.

16 Q And let me just reference it here. This is an e-mail from
17 you to Amy Blume-Hunter (phonetic) instructing that there are
18 no restrictions for this function in the statute. The team
19 does not believe it would be an expansion of gambling. It
20 still requires operator interaction for winning tabs over
21 \$20?

22 A That is right. That was on - you've got to remember that
23 when we go ahead and we started looking at the device, the
24 first thing that we did was say okay, let's make sure that we
25 cover ourselves and send it to CLD. But that was upon the

MAILED**MAY - 1 2006****OLYMPIA OAH****STATE OF WASHINGTON
WASHINGTON STATE GAMBLING COMMISSION**

In the Matter of the Petition for a
Declaratory Order by:

ZDI GAMING, INC.,

Petitioner.

Docket No. 2005-GMB-0041

WSGC No. 2005-01838

INITIAL DECLARATORY ORDER

STATEMENT OF THE CASE

This is an adjudicative proceeding instituted at the request of ZDI Gaming Incorporated (Petitioner), for a *Declaratory Order* pursuant to RCW 34.05.240, and WAC 230-50-850. The Petitioner filed its request for a *Declaratory Order* with the Washington State Gambling Commission (Commission) on or about September 19, 2005. By order dated October 14, 2005, the Commission referred this matter to the Office of Administrative Hearings for an administrative proceeding to develop the record.

Administrative Law Judge F. Neil Gorrell held an administrative hearing on December 1, 2005, at the Washington State Gambling Commission (Commission), 4565 7th Avenue SE, Lacey, Washington. At the hearing the Commission Staff (Staff) was represented by Assistant Attorney General Paul Goulding. The Licensee was represented by Joan Mell, Attorney at Law.

Exhibits¹ 1-20 were offered by the Petitioner in the course of the hearing.

Exhibits A-B were offered by the Staff in the course of the hearing.

¹ A comprehensive Exhibit List delineating which exhibits were admitted, excluded, and withdrawn is attached to this decision as Appendix A.

On March 17, 2006, the Petitioner filed a *Motion to Supplement the Record* with the Office of Administrative Hearings. The hearing record was reopened, and a prehearing conference was convened before the undersigned on March 20, 2006. Following the conference, Exhibit 21, consisting of 26 pages, was admitted into the record. The record again closed by stipulation of counsel on March 21, 2006.

The issues for determination in this *Initial Declaratory Order* are as follows:

- 1) Is the Petitioner entitled to relief in the form of a Declaratory Order as outlined in WAC 230-50-850 et. seq?
- 2) Is the Petitioner's VIP pull-tab dispenser² a "gambling device" as defined in RCW 9.46.0241(1)?
- 3) Is the Petitioner's VIP pull-tab dispenser in violation of any of the Commission's other rules which apply to pull-tab devices?

The Petitioner requested attorney fees and costs in the administrative proceeding pursuant to the Equal Access to Justice Act, as codified in RCW 4.84.340 et seq. As the Act applies only to judicial review of agency action, the request is premature. RCW 4.84.340; RCW 4.84.350. This argument, however, is explicitly preserved for review.

FINDINGS OF FACT

1. Jay Gerow is one of three family owners of ZDI Gaming Incorporated, a gaming supply distributorship licensed by the Commission. The company has been in business for 23 years, and Mr. Gerow has 25 years total experience in the gaming

² Specifically at issue in this matter is ZDI's VIP (Video Interactive Play) version 3.04. All references in this order to the VIP machine, unless specifically delineated otherwise, refer to version 3.04, as set up and demonstrated at the hearing on December 1, 2005. See Exhibits 1, 4, A.

industry. ZDI supplies pull-tabs, bingo supplies, casino supplies, and "just about anything to do with the gambling industry in the state of Washington." RP 88.³ Mr. Gerow has been involved with pull-tabs and their associated supplies since approximately 1989.

2. Pull-tabs predate the legalization of gambling in Washington State in 1973. While there are several variations, a standard pull-tab consists of a paper ticket with one or a series of "windows" which conceal numbers or symbols.⁴ Pull-tabs are an economic stimulant primarily utilized in restaurants, bars, facilities such as bowling alleys, and by charities. The tabs are maintained in a dispensing device, or behind the bar in an open bin called a "punch bowl."

3. After purchasing a pull-tab, the player opens one of the windows to reveal the symbols below to determine if the ticket is a winner. For a given pull-tab game, there are a predetermined number of winning tabs. A sheet called a flare designates the number of winning tickets, and is required to specifically list all available prizes which exceed \$20. See WAC 230-30-106(4).

4. The economic vitality of pull-tabs reached its height in the 1980's, and has since been in decline. The decline is attributed in large part to competing new forms of gambling, including mini casinos and the expansion of tribal gaming.

³ Citations to the administrative record are to RP, or "Report of Proceedings."

⁴ See WAC 230-02-260, which defines a "pull-tab" as a single folded or banded ticket or card, the face of which is initially covered or otherwise hidden from view to conceal a number, symbol or set of symbols, a few of which numbers or symbols out of every set of pull-tabs have been designated in advance and at random as prize winners, when, for the opportunity to obtain each such folded or banded ticket or card, view the numbers or symbols thereon and possibly obtain a prize winning pull-tab, a person pays some consideration to an operator.

5. In addition to purchasing pull-tabs directly from an employee of the establishment, pull-tab dispensing equipment has been authorized by the Commission. The first attempts utilized equipment initially designed to vend postage stamps. Over time, this equipment has been gradually refined.

6. In an effort to make pull-tabs more appealing to customers, manufacturers have developed dispensing equipment with entertainment features. The first serious effort in this regard was the Gold Crown Machine, first approved by the Commission in 1997. This equipment displayed the results of the pull-tab in a video format loosely resembling that of electronic slot machines.

7. The first version of Petitioner's VIP (Video Interactive Play) equipment incorporated a pull-tab dispenser and a pull-tab reader. The equipment is an electronically powered stand-alone device featuring a pull-tab dispenser, a video monitor display screen, and a currency/bill acceptor. All of these features are housed in an attractive locking cabinet. See Exhibits 1, 2, 10.⁵ Inside, the cabinet houses a number of electronic devices that govern the machine's operation, including various programmable computer circuit boards which generate the video display and track such items as credits remaining. *Id.*

8. The VIP display is intentionally designed to emulate a video slot machine. Exhibits 1, 2. Although the machine contains no drums or spinning reels, the video display contains rows of "spinning" pictures and simulates the play of a slot machine

⁵ Exhibit 1 depicts the equipment as set up in the hearing room. Machine number one (on the left) is the upgraded, unapproved version. Machine number two is the currently approved version of the equipment. Exhibit 2 consists of a PowerPoint series of photographs depicting use of the equipment. Exhibit 10 consists of a narrative of the same operation.

that would typically be found in a casino. The "reels" contain pictures and various characters that align in winning or losing combinations determined by the bar code on the inside of the paper pull-tab. In addition to appearing like a slot machine, the VIP also emits the "attractor" sounds associated with casinos.

9. To utilize the original VIP equipment, a player inserted currency and pressed a button to dispense the pull-tab. The player would then open the paper pull-tab, and either utilize the reader (along with its slot machine effects), read the inside of the ticket for him or herself,⁶ or take the pull-tab to an employee for verification and payment. This version of the VIP was approved by Executive Director Rick Day on June 10, 2002. Exhibit 19, p. 10.⁷

10. The VIP version 3.04 at issue in this proceeding operates in an identical fashion as the previous version, but incorporates a cash card acceptor. In the new version, a player may elect to use cash, or obtain a cash card from the establishment. Inserting a card displays the credit on that card, and allows the player to hit the dispense button.

11. For winning pull-tabs of \$20 or less, the VIP equipment credits the winnings directly to the inserted cash card as a credit, and retains the winning pull-tab. For winning pull-tabs in excess of \$20, the player is directed by the equipment to seek payment from an employee. If a player stops playing the game before all credit on the

⁶ While it is relatively easy to determine if a given pull-tab is a winner based on the additional code on the ticket, determining the amount of the win requires a fair degree of sophistication and familiarity with the game. See Exhibit 11, p. 2 (loser) compared with p. 3 (winner).

⁷ This exhibit was initially offered as Exhibit 19, p. 659.

cash card is extinguished, the remaining credit can be applied toward food, drinks, merchandise, or simply turned back in for cash.

12. The odds of winning for any individual player do not change from the use of a cash card. There are no monetary bonuses for utilizing a cash card. There is no fee associated with use of the cash card.

13. Mr. Gerow credibly testified that he has spent hundreds of hours, and almost a year, developing the VIP equipment. He has also spent countless hours trying to work with the Commission Staff toward approval.

14. William Tackitt is the Chief Executive Officer of 15 entities located in Washington doing business as the Buzz Inn Steakhouse. Exhibit 18. Mr. Tackitt has utilized cash cards in his business, which in part led Mr. Gerow to develop the most recent version of the VIP.

15. The Buzz Inn utilizes a point of sale purchase card good on everything in the restaurant. A Commission Agent in the Spokane Field Office informally approved the point of sale card for the purchase of pull-tabs. Exhibit 18. The cards work much as described for the new VIP, and are depicted in pictures in Exhibit 3. The distinction is that while a customer purchases the pull-tabs with a cash card, the sale must be through an employee of the restaurant. Mr. Tackitt has never received formal permission from the Commission as a whole. When first informally approved, Commission Agents allowed winnings to be credited back to the card directly. Following the filing of the Petition in this matter, however, the agents require that customers first convert the winnings to cash. The customer is then free to hand the cash back to the employee to credit to the card. Exhibit 18, pp. 6-8.

16. Mr. Tackitt is aware of no Commission rule or statute which would authorize his current use of the cards. Further, he has never been authorized to use a cash card to purchase pull-tabs through a machine or device, primarily because such a device does not yet exist.

17. Frank Miller testified on behalf of the Petitioner. Mr. Miller has over 20 years experience in the gambling industry, including positions as both Deputy Director and Director of the Commission. Mr Miller has practiced law in private practice with an emphasis in gambling issues since he left the Commission in 1997.

18. Mr. Miller reviewed the Petitioner's request, along with specifications of the VIP machine. In short, Mr. Miller believes that the new device will make pull-tabs more attractive to players, while enhancing regulatory control.

19. Dallas Burnett is Administrator for the Electronic Gambling Lab at the Commission. He is responsible for all activities within the lab, and has worked for the Commission for 16 years. Mr. Burnett has worked extensively with electronic gambling devices for the six years he has run the lab.

20. When first developing the idea for the VIP, Mr. Gerow spoke with Mr. Burnett. At the time, Mr. Burnett gave his "initial feelings" of the equipment, and was optimistic regarding approval. RP 170-172. Mr. Burnett credibly testified, however, that in this initial discussion it was not made clear that the equipment would credit a player's winnings of \$20 or less directly on the card. In any event, Mr. Burnett testified that it is not the role of the gambling lab to approve or reject new electronic gambling devices.

21. At Mr. Burnett's suggestion, the Petitioner formally applied with the Commission for approval of the new VIP equipment on April 1, 2005. Exhibits 4, A.

The application was placed in the queue of the Gambling Equipment Team (GET team) for processing. The GET team consists of Mr. Burnett, along with a supervisor from the tribal regulatory team, and from field operations.

22. On August 15, 2005, David Trujillo, Assistant Director of the Licensing Operations Division, formally denied the Petitioner's application by letter. Exhibit B.

23. From the foregoing Findings of Fact, the following Conclusions of Law are entered:

CONCLUSIONS OF LAW

1. The undersigned Administrative Law Judge has jurisdiction over the parties involved and the issues decided herein pursuant to WAC 230-50-850(1) as well as RCW 34.05.240(1).

2. When the Washington State Legislature adopted the Gambling Act of 1973, it declared that "the public policy of the state of Washington on gambling is to keep the criminal element out of gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities and by strict regulation and control." The declaration concludes by stating that "[a]ll factors incident to the activities authorized in this chapter shall be closely controlled, and the provisions of this chapter shall be liberally construed to achieve such end." RCW 9.46.010.

Is a Declaratory Order Appropriate?

3. The first issue is whether the Petitioner is entitled to relief in the form of a *Declaratory Order*. WAC 230-50-850 provides the requirements to obtain a *Declaratory Order*.

(1) Any person may petition the commission for a declaratory order with

respect to the applicability to specified circumstances of a rule, order, or statute enforceable by the agency. The petition shall set forth facts and reasons on which the petitioner relies to show:

- (a) That uncertainty necessitating resolution exists;
- (b) That there is actual controversy arising from the uncertainty such that a declaratory order will not be merely an advisory option;
- (c) That the uncertainty adversely affects the petitioner;
- (d) That the adverse effect of uncertainty on the petitioner outweighs any adverse effects on others or on the general public that may likely arise from the order requested.

4. First, where a person submitting electronic equipment for approval disagrees with the Director's decision, a petition for a declaratory order may be filed to be heard de novo by an administrative law judge. WAC 230-12-316(5).

5. Even absent the explicit authority cited above, all four elements justifying a Declaratory Order are present in this case. The parties stipulated at hearing that uncertainty exists regarding the use of cash cards in the fashion proposed by the VIP equipment. Next, this case presents an actual controversy in the form of the Petitioner's denied application for approval of the new VIP equipment. The time and expense of working toward approval, along with the legitimate threat that any equipment placed in service without approval is subject to immediate seizure adversely affects the Petitioner. Finally, the adverse effect on the Petitioner does outweigh the adverse effect on others from this decision. In short, it is appropriate to enter a *Declaratory Order*.

Is the VIP Machine an Illegal Gambling Device?

6. The term "gambling device" is defined in RCW 9.46.0241 as follows:

"Gambling device," as used in this chapter, means:

- (1) Any device or mechanism the operation of which a right to money, credits, deposits or other things of value may be created, in return for a consideration, as the result of the operation of an element of chance, including, but not limited to slot machines, video pull-tabs, video poker, and other electronic games of chance;**
- (2) any device or mechanism which, when operated for a consideration, does not return the same value or thing of value for the same consideration upon each operation thereof;**
- (3) any device, mechanism, furniture, fixture, construction or installation designed primarily for use in connection with professional gambling;**
and
- (4) any subassembly or essential part designed or intended for use in connection with any such device, mechanism, furniture, fixture, construction or installation.**

7. Here, the parties have stipulated that only the first definition is at issue in this matter. To constitute an illegal gambling device under RCW 9.46.0241(1), three elements must be present: a right to money, credit, or other thing of value (prize); consideration; and an element of chance. The device itself must incorporate all three elements to fit within the definition.

8. The parties stipulate that consideration is present with the new version of the VIP equipment. A player places currency, in the form of cash or a cash card, into the equipment. In exchange, the player is entitled to purchase individual pull-tabs, and view the results on the video screen. The equipment does not issue "free plays," and only ZDI pull-tabs may be utilized with the equipment.

9. There is an element of chance involved in all pull-tabs, including those dispensed by the ZDI VIP equipment. In any given series of pull-tabs, only a

predetermined number will pay a prize. The element of chance, however, derives from the **pull-tab**, not from the dispenser or reader. The ZDI VIP equipment itself has no more effect on the element of chance than a more traditional punch bowl does. The equipment does not alter the order of the pull-tabs, or otherwise give the player any advantage not present in all other forms of the game. In fact, the Commission has already approved the previous version of the VIP, which has an identical dispensing and reading mechanism.

10. Finally is the element of prize. To constitute an illegal gambling device, operation of the ZDI VIP equipment itself must create a right to money, credits, deposits or other things of value. In interpreting any statutory provision, one must always begin with the plain language of that provision. See e.g. *Lacey Nursing Center, Inc. v. Department of Revenue*, 128 Wn.2d 40, 53, 905 P.2d 338 (1995). Where the language is unambiguous, legislative intent is determined from the language alone. *Waste Management v. WUTC*, 123 Wn.2d 621, 629, 869 P.2d 1034 (1994). Further, when a regulation contains an ambiguity, courts must give meaningful effect to the entire regulation and not render any portion of it superfluous, but must also avoid absurd or strained results. See *Fray v. Spokane County*, 134 Wn.2d 637, 952 P.2d 601 (1998).

11. Staff has consistently argued that the ZDI VIP equipment "creates money to add back to the gift card." *Staff's Brief in Support of Closing Argument*, p. 4. It is, however, the **pull-tab** which establishes the existence and amount of any prize. The equipment merely reads the pull-tab (if requested to do so by the player), and saves the player the time required to walk up to an employee for a prize of \$20 or less.

12. Reading the statute as a whole, "credits" is utilized as a noun, not a verb. It is simply another example of "things of value." Thus, to meet the definition, operation of the ZDI VIP equipment itself would need to create the right to a prize. Whether a player decided to utilize the reader for the added entertainment value, took all of the opened pull-tabs directly to employees of the establishment for analysis, or learned how to read winning tickets for him or herself, the prize is solely created by the pull-tab. In this instance, a slightly larger version of the same, standard, paper pull-tab in place and approved all over the state.

13. In short, the ZDI VIP equipment does not meet the definition of illegal gambling device under the statute, and cannot be denied on this basis. The element of chance and prize stem solely from the paper pull-tabs, not the dispensing and reading equipment.

Is Normal Operation of the ZDI VIP Equipment Equivalent to an Extension of Credit?

14. WAC 230-12-050 provides in relevant part:

Extension of credit, loans, or gifts prohibited — Limited exception.

No licensee, member or employee thereof shall extend credit, make a loan, or grant a gift to any person playing in an authorized gambling activity, or which enables a person to play in an authorized gambling activity.

* * *

Credit and loans prohibited -- Exceptions.

(2) The consideration required to participate in the gambling activity shall be collected in full, by cash, check, or electronic point-of-sale bank transfer, prior to participation, with the following exceptions:

Punch boards/pull-tabs.

(a) The consideration paid for the opportunity to play a punch board or pull-tab series may be collected immediately after the play is completed only when such consideration is ten dollars or less;

* * *

15. On its face, the ZDI VIP equipment allows the purchase of pull-tabs with a cash card. As the regulation requires all pull-tabs to be purchased with "cash, check, or electronic point-of-sale bank transfer", a cash card must be equivalent to cash for the equipment to comply with the rule. The term "cash" is not defined in either the Commission's statute or regulations. Black's Law Dictionary defines cash as follows:

1. Money or its equivalent.
2. Currency or coins, negotiable checks, and balances in bank accounts.

Black's Law Dictionary, Seventh Edition (1999). The American Edition of the Oxford Dictionary defines cash as "money in coins or bills, as distinct from checks or orders." The Oxford Dictionary and Thesaurus, American Edition (1996).

16. While the Oxford definition is more restrictive than the Black's definition, what both share is the unifying idea of cash: it has the same value and is accepted everywhere. A \$10 bill is legal currency in every store in every county of Washington. Negotiable checks also have the same value and are accepted everywhere.⁸

17. The difficulty with a cash card is that it's only valid at one location. It is impossible to take the cash card from the Buzz Inn to a local Harley Davidson dealer and purchase a new helmet. The cash card must be converted back into actual cash to

⁸ The undersigned notes that some establishments do impose additional limitations on the use of checks. As long as sufficient funds exist in the account, however, the issuing bank will honor the check at any establishment.

be useful at any other location. Even if the cards do not expire, and the issuing merchant is required to convert the remaining balance on a card to actual cash upon request, cash cards are not cash because they require an additional step on the part of the consumer to utilize in any other location.

18. The Petitioner argues that the existence of the informal approval granted to the Buzz Inn, along with a handful of similar exceptions, should somehow take precedence over the language of the regulation. There is no evidence in the record that the Commission has ever officially authorized the use of a cash card for pull-tab purchases.

19. The Petitioner also asserts that the cash cards pose no legitimate regulatory threat because a related system is in use in tribal facilities. The tribal lottery systems, as governed by compact, Appendix X, and various state and federal laws, are entirely independent from the non-tribal pull-tabs at issue in this matter. As pointed out by Frank Miller in his testimony, "regulatory controls for [tribal] systems are governed by compacts, not administrative code provisions." RP 39.

20. The Petitioner asserts that the ZDI VIP equipment allows for better regulatory control. This is in the form of a better audit trail, less handling of money, better opportunity for automated reports, and less opportunity for employees to make mistakes or outright steal from the system. The Petitioner also points out that cash cards did not exist when the rule was written, and the "evil" sought to be avoided by the rule is a debt to the house for gambling. Such indebtedness "to the house" is not likely with the cash card system.

21. While these may be legitimate arguments, and the cited rule could not

have directly contemplated the use of cash cards, I must apply the regulation as written. The Commission is free within their discretion to amend the rule to comply with their current policy decisions, as appropriate. As currently written, however, the ZDI VIP equipment violates this regulation.

Does the VIP Machine Inappropriately Award Prizes?

22. WAC 230-30-070 provides in relevant part:

Control of prizes — Restrictions — Bonus prizes — Displaying — Procedures for awarding.

Punch board and pull-tab prizes shall be closely controlled to ensure players are not defrauded.

(1) All prizes from the operation of punch boards and pull-tabs shall be awarded in cash or in merchandise.

* * *

23. The ZDI VIP equipment violates this rule for the same reason it violates WAC 230-12-050(2). While both the value and existence of the prize are determined solely by the pull-tab itself, the equipment at issue automatically applies prizes of \$20 or less to the cash card. As noted above, a cash card is not cash. While it might be tedious at best for a player to seek an employee for payment for every prize of as little as a dollar, that is what the regulation requires.

Staff's Other Concerns

24. WAC 230-30-050 provides in relevant part:

Punch board and pull-tab operating restrictions and dispensing limitations.

The following operating restrictions and dispensing limitations apply to punch boards and pull-tabs:

(1) No person under the age of eighteen years and no person visibly intoxicated or visibly under the influence of any narcotic, shall be allowed to play or sell any punch board or pull-tab series. It shall be the responsibility of both the licensee and the person physically operating the punch board or pull-tab series to determine and ensure that no unauthorized person is allowed to play or sell.

* * *

25. The use of any equipment to dispense a product, from cigarettes to condoms to pull-tabs, removes some control. At hearing, the Staff preserved this argument, but conceded that these concerns do not by themselves rise to a level which would deny approval of the ZDI VIP equipment. In fact, the already approved version of the VIP equipment, which merely lacks the card reader, would be subject to the same concerns. There appears to be nothing significant about the addition of the card reader per se that would increase the risk of underage and/or intoxicated persons purchasing pull-tabs.

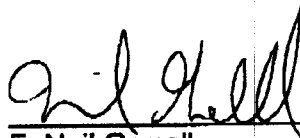
INITIAL DECLARATORY ORDER

IT IS HEREBY DECLARED and ORDERED that under the law of the State of Washington:

1. The Petitioner is entitled to relief in the form of a Declaratory Order as outlined in WAC 230-50-850 et. seq.
2. The Petitioner's VIP version 3.04 equipment is not an illegal "gambling device" as defined in RCW 9.46.0241(1).
3. The Petitioner's VIP version 3.04 equipment is in violation of WAC 230-12-050(2), and WAC 230-30-070(1).
4. The Commission was justified in denying approval for the equipment

based on violation of the above regulations, but has the inherent authority to revise the rules to better comport with the modern realities of the industry if it elects to do so.

DATED at Olympia, Washington, on the date of mailing.



F. Neil Gorrell
Administrative Law Judge
Office of Administrative Hearings

NOTICE TO PARTIES

Pursuant to the Washington State Gambling Commission Rules, WAC 230-50-560, WAC 230-50-200 and WAC 230-50-210, you have twenty-three days from the date this initial order was mailed to file an appeal of this order known as a "petition for review". The petition for review should specify the parts of the initial order which you disagree with and should refer to the evidence in the record that supports your position. If you decide to petition for review, you must serve copies of your petition on all parties or their representatives at the same time you file it with the Gambling Commission. If a petition for review is not received by the Gambling Commission within 23 days of the date this initial order was mailed, the Commission will automatically adopt this order, and it will thereby become final.

Any party may file a written response to a petition for review, known as a reply. If you wish to file a reply, it must be filed with the Commission within thirty days of the date you are served with the petition. You must serve copies of the reply on all parties or their representatives at the same time you file your reply.

Any party may file a cross appeal. Cross appeals must be filed with the commission within ten days of the date when the petition for review was filed with the Commission, pursuant to WAC 230-50-560 and WAC 230-50-210. If you wish to make a cross appeal, you must serve copies of the cross appeal upon all other parties or their representatives at the same time you file your cross appeal.

If a petition for review is timely filed with the commission, then at least a majority of the Commission members shall review the petition within one hundred and twenty days after the petition is filed and render a final order.

This *Initial Declaratory Order* was mailed to:

PETITIONER:

ZDI Gaming, Inc.
2124 - 196th Street SW
Lynnwood, WA 98036
(by mail only)

PETITIONER REPRESENTATIVE:

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Communications and Legal Department
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STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I hereby certify that I have this day served a copy of this document upon all parties of record in this proceeding by mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington, this 1st day of May, 2006.


Representative, Office
of Administrative Hearings

APPENDIX A EXHIBIT LIST

CASE NAME: In Re the Matter of the Petition of ZDI Gaming, Inc.

Docket No(s): 2005-GMB-0041; CR 2005-01838 Hearing Date(s): 12/1/2005; 3/20/2006				
EXHIBITS:				
Exhibit Number	Description of Exhibit	Number of Pages	Admitted?	Offered by
1	Photographs of ZDI Equipment as set up in the hearing room on 12/1/2005	3	X	Pet
2	Hard copy of PowerPoint presentation depicting operation of equipment	5	X	Pet
3	Hard copy of PowerPoint presentation depicting current use of cash cards for pull-tab gaming	3	X	Pet
4	Petitioner's application for approval of the VIP Version 3.04	4	X	Pet
5	Meeting Minutes from the Gambling Commission meeting of July 10, 1997 (w/ audio tape)	10	X	Pet
6	AGO Opinion AGO 1999 No. 7	9	X	Pet
7	Meeting Minutes from the Gambling Commission meeting of October 14, 2005	8	X	Pet
8	Commission Letter dated August 15, 2005 rejecting approval	2	X	Pet
9	Bio of witness Jay Papillon	1	W/D	Pet
10	Description of VIP equipment	3	X	Pet
11	Pull-tab examples from VIP equipment	3	X	Pet
12	Hard copy of PowerPoint presentation as demonstrative exhibit of amusement games	3	X	Pet
13	Deposition of Dallas Burnett	124	X	Pet

Exhibit Number	Description of Exhibit	Number of Pages	Admitted?	Offered by
14	Deposition of Sonya Dolson	84	X	Pet
15	Deposition of Cathy Harvey	108	X	Pet
16	Deposition of Greg Thomas	82	X	Pet
17	Declaration of Frank Miler	9	X	Pet
18	Declaration of William D. Tackitt	8	X	Pet
19	Selected Deposition Exhibits and supplemental documents (reduced from the original submitted Exhibit 19 by agreement of the parties)	10	X	Pet
20	Exhibits regarding Attorneys Fees and Costs	n/a	W/D	Pet
21	Materials Pursuant to Petitioner's Motion to Supplement the Record	26	X	Pet
A	Petitioner's application for approval of the VIP Version 3.04	4	X	GMB
B	Commission Letter dated August 15, 2005 rejecting approval	2	X	GMB

Note - Exhibit 19, as initially submitted, is included for the official record. Of the total 804 pages initially proposed, only the 10 pages in Exhibit 19 were admitted.¹

¹ By agreement of the parties, Exhibit 19, pp. 8; 21; 83-85; 561-562; 583-584; 659 were admitted. Exhibit 19, p. 22 was explicitly excluded from the record.



Rules Up For Discussion and Possible Filing

Proposed Amendment to
WAC 230-30-070 Control of prizes – Restrictions – Bonus prizes –
Displaying – Procedures for awarding.
WAC 230-12-050 Extension of credit, loans, or gifts prohibited – Limited
exception.

ITEM 15 (a) on the June 16, 2006, Commission Meeting Agenda.	Statutory Authority 9.46.070
Who proposed the rule change?	
ZDI Gaming Inc., a licensed distributor and manufacturer.	
Proposed Change	
<p>The petitioner is requesting WAC 230-30-070 be amended to allow prizes from punchboard or pull-tab games be paid in the form of a gift certificate or on a gift card if the prize is \$20 or less. Most prizes are below \$20.</p> <p>The petitioner is also requesting that WAC 230-12-050 be amended so that participants may use a gift certificate or gift card as consideration to participate in a gambling activity.</p>	
History of Rule	
<p>Punch board or pull-tab prizes must be awarded in cash or merchandise only. (WAC 230-30-070)</p> <p>Only cash, checks, or electronic point-of-sale bank transfers can be used to participate in gambling activities. (WAC 230-12-050)</p> <p>At their October 2005, meeting, the Commission filed a Petition for Rule Change submitted by Monty Harmon, a licensed gambling service supplier. Mr. Harmon's petition has been discussed at six Commission meetings. At the April 2006 meeting, Mr. Harmon requested that his petition be held over until the July meeting when he is available to attend the meeting. Mr. Harmon is requesting that the definition of cash be expanded to allow players the ability to use "guest cards" to participate in gambling activities. He is also requesting the ability to add a player's winnings to "guest cards", rather than paying winnings with cash or check. Staff does not support Mr. Harmon's Petition and has requested that the Commission deny Mr. Harmon's request in favor of staff's alternative (blue paper). Staff's alternative would allow gift cards/certificates to be used to participate in gambling activities, but would not allow winnings to be credited to gift cards/certificates.</p> <p>Information relating to ZDI Gaming, Inc. litigation and attached documents:</p> <p>ZDI filed a Declaratory Order for a Pull Tab dispensing device (Video Interactive Play (VIP)) that would allow a cash card to be used to purchase pull-tabs and to receive prizes of \$20 or less. The Administrative Law Judge (ALJ) issued a Declaratory Order on May 1, 2006, and found that the VIP device was not a gambling device as defined under RCW 9.46.0241(1) because the device did not meet the three elements of gambling.</p> <p>However, the ALJ found the VIP device was in violation of WAC 230-12-050 because the device allows a cash card to be used for the consideration and the prize, and the cash card does not meet the definition of cash as defined in either the Black's Law Dictionary or the American Edition of the Oxford Dictionary. The ALJ found the VIP device would not be authorized under WAC 230-12-050 and WAC 230-30-070.</p> <p>After we received ZDI Gaming's Petition for Rule Change, ZDI appealed the ALJ's decision.</p>	

Impact of the Proposed Change
<p>Staff opposes the Petition for the following reasons:</p> <ol style="list-style-type: none"> 1) Approving the petitioner's request would open the door to proposals that combine gift cards and pull-tab dispensing devices. These proposals would look similar to slot machines and share some of the same features. 2) The petition does not contain a dollar limit on gift cards, which could facilitate money laundering (see attached news article on yellow paper). 3) Players are more likely to spend additional money gambling at a licensee's business when a gift card is issued, compared to if cash was given as a prize.
Regulatory Concerns
<p>This proposal would allow patrons to participate in a gambling activity without any interaction with employees of the establishment who would be able to determine if the patron is intoxicated or under age.</p> <p>This could ultimately allow gambling devices that are not currently allowed.</p>
Resource Impacts
<p>Approving the petitioner's request would likely lead to proposals to combine pull-tab dispensing devices and gift cards. These new devices would require the Commission's review under WAC 230-30-097. It would require review by our electronic gambling lab and changes in regulatory processes for our Field Operations Division.</p>
Policy Considerations
<p>This could be considered an expansion of gambling.</p> <p>The rule change would likely lead to future requests for devices that would look very similar to slot machines and only requires interaction with an employee if the prize exceeds \$20.</p>
Stakeholder Statements Supporting the Proposed Rule Change
<p>None.</p>
Stakeholder Statements Opposing the Proposed Rule Change
<p>None.</p>
Licensees Directly Impacted By the Change
<p>Licensed manufacturers, distributors, and pull-tab operators.</p>
Staff Recommendation
<p>Staff recommends the Commission deny the Petition in favor of staff's alternative (blue paper). Staff's alternative allows gift cards and gift certificates to be used to participate in gambling activities and does not allow winnings to be placed on gift cards/certificates.</p>



Rule Up For Discussion and Possible Filing

Proposed Amendment to
WAC 230-40-821
Accounting systems – House-banked card rooms.

ITEM 16 (a) on the June 16, 2006, Commission Meeting Agenda.	Statutory Authority 9.46.0282 and 9.46.070(12)(14)(20)
Who proposed the rule change?	
Staff.	
Proposed Change	
<p>The proposed changes are to make it clear to house-banked card room applicants and licensees that:</p> <ol style="list-style-type: none"> 1) Their accounting system must be maintained in accordance with Generally Accepted Accounting Principles (“GAAP”), which is the accounting industry standard; 2) Their accounting system must include all income and expenses for the business entity; and 3) They must have their accounting system in place prior to licensure. 	
History of Rule	
<p>This rule requires house-banked card room licensees to keep a complete set of accounting records, which have been approved by the Commission. These accounting records must include the details of all receipts and disbursements of the licensee.</p> <p>GAAP requirements are the industry standard for accounting and this rule lists many GAAP requirements. GAAP requirements are currently located in two rules; 1) financial statement rule (WAC 230-40-823); and 2) internal controls rule (WAC 230-40-815).</p> <p>Staff is responsible for ensuring that the monies contributed or loaned to licensees and applicants come from a qualified source. When licensees follow GAAP requirements, we are reasonably assured all owners and substantial interest holders of the business have been identified and the financing structure in the accounting records match the financial structure they submitted with their application.</p> <p>Currently, the rule does not require licensees to have their accounting system in place prior to licensure.</p>	
Impact of the Proposed Change	
<p>The proposed changes make it easier for house-banked applicants and licensees to know what the accounting requirements are. Understanding that they must have an accounting system in place prior to licensure, for their entire business entity, will assist applicants and the Commission staff. In addition, staff will be able to more readily prevent house-banked card rooms, without an accounting system maintained in accordance with GAAP, from receiving a license.</p> <p>Requiring an accounting system of the overall legal entity maintained in accordance with GAAP prior to licensure, assists both the licensee and staff in preparing house-banked card rooms for their financial statement submission at the end of their fiscal year.</p> <p>Requiring licensees to maintain their accounting system in accordance with GAAP ensures consistency in the reporting of business transactions among licensees. In addition, GAAP is the accounting industry’s standard method of recording transactions. Any other method of accounting does not truly reflect an accurate picture of the financial position and health of the house-banked card room.</p>	

The proposed changes will ensure that house-banked card rooms' accounting systems are maintained in a standardized system for staff to quickly determine compliance.

Regulatory Concerns

The accounting requirements section for house-banked card room licensees and applicants is not clear. Currently, licensees and applicants must look at the internal control rule (WAC 230-40-815) to discover that their accounting must be maintained in accordance with GAAP. The financial statement submission rule (WAC 230-40-823) requires financial statements for the entire business entity.

Resource Impacts

All house-banked card room licensees are required to submit financial statements to the Commission after their fiscal year ends. All licensees have now submitted at least one financial statement to the Commission. The lack of clarity in the accounting system rule was discovered during staff's review of the financial statements.

Policy Consideration

None.

Stakeholder Statements Supporting the Proposed Rule Change

None.

Stakeholder Statements Opposing the Proposed Rule Change

None.

Licensees Directly Impacted By the Change

House-banked card room applicants and licensees.

Staff Recommendation

File for further discussion.

Proposed Effective Date for Rule Change

January 1, 2007.



Rule Up For Discussion and Possible Filing

Proposed Amendment to

WAC 230-40-823

Financial statements required - House-banked card rooms.

ITEM 16 (a) on the June 16, 2006, Commission Meeting Agenda.

Statutory Authority 9.46.0282
and 9.46.070(12)(14)(20)

Who proposed the rule change?

Staff.

Proposed Change

With the popularity of poker, many house-banked card room licensees now offer poker with their house-banked games. Licensees have been confused about whether they need to report gross receipts from poker with their gross receipts from house-banked card games in determining the type of financial statement that they need to submit. Language has been added to clarify that house-banked card rooms must include receipts from all house-banked and nonhouse-banked card games offered by the licensee when determining the type of financial statement they should submit to the Commission. This will provide consistency among all house-banked card rooms regarding the type of financial statements they submit.

Staff is also proposing the rule be changed to provide more information to licensees about the submission requirements, such as adding a definition so licensees know exactly what documents they must submit, i.e., balance sheet, income statement, statement of cash flows, etc. This will ensure the consistency of information submitted by all house-banked card rooms.

Currently, licensees must use an independent, certified public accountant. The rule does not define what "independent" means. Therefore, a definition has been added to the rule.

History of Rule

This rule originated in 2000, to require all house-banked card room licensees with gross receipts in excess of \$5 million to submit audited financial statements to the Commission.

In 2004, house-banked card rooms were concerned that Activity Reports showed only the net income/loss for a portion of their business, the card room, and did not show the activity for the whole business, such as losses in the food and beverage portion of the business. Licensees requested the Commission change the Activity Reports to require licensees to report income and expenses for their overall business entity. This was not a viable solution since the Commission did not have the resources to ensure the revenues and expenses reported for the overall business entity were accurate.

As an alternative to increasing activity reporting requirements, this rule was amended to require all house-banked card room licensees to submit audited, reviewed, or compiled financial statements to the Commission. The type of financial statement required is based on the house-banked card room's gross receipts. The amendments were adopted as an alternative to house-banked card rooms' requests to submit information that would more accurately reflect the operation of their overall business rather than just their gambling operations.

Requiring financial statements to be submitted from all house-banked card rooms has reduced staff time in both the Financial Investigations Unit and Field Operations. We are now able to quickly identify compliance problems after reviewing the financial statements of house banked card rooms each year.

<p>Financial statements must be prepared by an independent, certified public accountant. The financial statements allow staff to monitor house-banked card rooms for undisclosed substantial interest holders; undisclosed loans, leases, and agreements, and overall compliance with the accounting and reporting rules, which supports the Commission's mission.</p> <p>Staff is also using the information reported in the financial statements as a way to assess the risk of noncompliance. Staff can then focus resources on the house-banked card rooms that it determines to be more of a risk, and less time on those that maintain compliance.</p>
Impact of the Proposed Change
<p>These proposed changes will ensure that the financial statement submissions from house-banked card rooms are more comparable because they are prepared by an independent, certified public accountant; each licensee submits the same financial information; and each licensee includes poker gross receipts when determining the type of financial statements required to be submitted.</p> <p>All house-banked licensees were required to submit financial statements for fiscal years ending after July 1, 2004. Therefore, all licensees have now submitted financial statements at least one time. These three items staff is seeking to clarify were common questions by licensees. Clarifying these items in the rule will assist licensees.</p>
Regulatory Concerns
<p>The amendment will ensure all house-banked card rooms submit the same type of financial reports and information to the Commission. In addition, inconsistencies will be eliminated in reporting among house-banked card rooms.</p>
Resource Impacts
<p>Staff expects less time will be spent answering questions from licensees.</p> <p>Staff will be more assured of the information presented since we are clearly defining who must prepare the financial statements and the information required to be presented.</p>
Policy Consideration
<p>Poker receipts were intended to be included in the calculation of house-banked card room gross receipts for determining the type of financial statement to be submitted. Licensees who receive a house-banked card room license are allowed to offer both house-banked and nonhouse-banked card games. This is allowed under RCW 9.46.0282. The proposed changes will make reporting consistent.</p>
Stakeholder Statements Supporting the Proposed Rule Change
None.
Stakeholder Statements Opposing the Proposed Rule Change
None.
Licensees Directly Impacted By the Change
House-banked card rooms.
Staff Recommendation
File for further discussion.
Proposed Effective Date for Rule Change
January 1, 2007.

AMENDATORY SECTION:

WAC 230-40-821 ~~((General accounting))~~Accounting system records – ~~((House-banking))~~ House-banked card rooms. Every licensee authorized to offer house-banked card games shall keep and maintain a complete set of records, which have been approved by commission staff prior to licensure. Such records shall include all receipts and disbursements of the licensee, including but not limited to those related to gambling activities. ~~((details of activities related to the conduct of the licensed activity.))~~ The following requirements shall apply:

Revenue and expenses.

(1) Each licensee shall maintain legible, accurate and complete records of all transactions relating to the revenues and costs of the gaming operation. These records shall be maintained in a format to ensure consistency, comparability, and effective disclosure of financial information.

~~((General accounting records))~~ Accounting system.

(2) The ~~((General))~~ accounting system ~~((records))~~ shall be ~~((maintained on))~~ a double entry system of accounting with transactions recorded on an accrual basis and in conformity with generally accepted accounting principles, to include detailed, supporting, subsidiary records, sufficient to meet the requirements below.

Recordkeeping.

(3) The detailed, supporting and subsidiary records shall include, but not necessarily be limited to:

- (a) Records of all patrons' checks initially accepted, deposited, and returned as "uncollected," and ultimately written off as "uncollectible";
- (b) Statistical game records to reflect drop and win amounts for each table, for each game, and for at least each period for which the drop boxes are removed, which shall be at the minimum, the end of each gaming day;
- (c) Records of investments in property, including, but not limited to, equipment used directly in connection with the gaming operation;
- (d) Records of amounts payable by the gaming operation;
- (e) Records which identify the purchase, receipt, and destruction of all cards and gaming chips used in wagering; and
- (f) Records of services provided for the operation of gaming activities.

Copies.

(4) Whenever duplicate or triplicate copies are required of a form, record or document:

- (a) The original, duplicate, and triplicate copies shall be color-coded;
- (b) If under these standards, forms, records, and documents are required to be inserted

in a locked dispenser, the last copy shall remain in a continuous unbroken form in the dispenser; and

(c) If under these standards, forms or serial numbers of forms are required to be accounted for or copies of forms are required to be compared for agreement and exceptions noted, such exceptions shall be reported immediately to the commission for investigation.

Storing documents.

(5) All forms, records, documents and stored data required to be prepared, maintained and controlled shall:

(a) Have the title of the form, record, document, or stored data (such as "fill slip," "request for fill," "credit slip," "request for credit," "reconciliation," etc.), imprinted or preprinted thereon or therein; and

(b) All records shall be maintained for a period of not less than three years. At least the past six months of gambling records must be available for inspection on premises.

Employee records.

(6) Licensees shall maintain a records system that ensures all applicable employees have met licensing requirements. The system shall be maintained on the premises and include the following:

- (a) Employee names;
- (b) Gambling license numbers;
- (c) Gambling license expiration dates; and
- (d) Photocopies of all current employees' licenses.

Record of employees who have not yet received a license.

(7) If an employee license has not yet been issued, the licensee shall maintain a copy of the following:

- (a) Temporary employment authorization;
- (b) Documentation that the required payment (license or transfer fee) has been made; and
- (c) Proof that the employee has adhered to the ten-day waiting period, if applicable.

Notification - new license not received.

(8) The licensed card room operator shall ensure commission staff is notified if an employee license has not been received within sixty days of employment.

AMENDATORY SECTION:

WAC 230-40-823 Financial ~~((audits and reviews))~~ statements required ((--House-banking)) House-banked card rooms. Each licensee ~~((operating))~~ authorized to offer house-banked card games shall prepare financial statements covering all financial activities of the licensee's establishment for each business year. The following definitions and requirements shall apply:

(1) The following definitions shall apply to all subsections of this rule:

(a) "Financial statements" shall include at least the following: balance sheet, statement of income, statement of retained earnings or changes in equity, statement of cash flows, and all required notes or disclosures. All financial statements must be in accordance with United States generally accepted accounting principles.

(b) "Card room gross receipts" shall include receipts from all house-banked and nonhouse-banked card games offered by the house banked card room.

(c) "Independent" means there is no relationship that may influence a certified public accountant's impartiality and objectivity in rendering services.

Audited financial statements - gross receipts over three million dollars.

~~((4))~~ (2) Each licensee with ~~((house-banked-card-game))~~ card room gross receipts in excess of three million dollars for the business year shall engage an independent, certified public accounting firm licensed by the Washington state board of accountancy who shall audit the licensee's financial statements in accordance with generally accepted auditing standards.

Reviewed financial statements - gross receipts of one to three million dollars.

~~((2))~~ (3) Each licensee with ~~((house-banked-card-game))~~ card room gross receipts of one to three million dollars for the business year shall engage an independent, certified public accounting firm licensed by the Washington state board of accountancy who shall review the financial statements in accordance with the statements on standards for accounting and review services or audit the financial statements in accordance with generally accepted auditing standards.

Compiled financial statements - gross receipts of less than one million dollars.

~~((3))~~ (4) Each licensee with ~~((house-banked-card-game))~~ card room gross receipts of less than one million dollars for the business year shall engage an independent, certified public accounting firm licensed by the Washington state board of accountancy who shall compile the financial statements in accordance with the statements on standards for accounting and review services in accordance with generally accepted accounting principles, including all required ~~((foot))~~ notes or disclosures on an accrual basis of accounting.

Financial statement presentation.

~~((4))~~ (5) The financial statements must be presented in the following manner:

(a) Financial statements shall be submitted on a comparative basis: Provided, That the first year may be submitted for the current business year only; and

(b) Gross revenues from each licensed activity should be reported by activity and separate and apart from all other revenues.

Consolidated financial statements.

~~((5))~~ (6) Consolidated financial statements may be filed by commonly owned or operated establishments. These statements must include consolidated schedules presenting separate financial statements for each licensed card room location.

Change in business year.

~~((6))~~ (7) If a licensee changes its business year, they shall notify the director within thirty days. The licensee shall submit financial statements for the period covering the end of the previous business year to the end of the new business year.

Filing with the commission.

~~((7))~~ (8) A copy of the report and the financial statements shall be submitted to the director within one hundred twenty days following the end of the licensee's business year. The director may authorize a sixty-day extension if a licensee submits a written request explaining the need for the extension.

~~((Effective date.~~

~~-(8) This rule will be effective for business years ending on or after July 1, 2004.))~~

Chapter 11

Raffle Rules

Up for Filing for Discussion

ITEM 17:

a) Rules Simplification Project

Chapter 11

Raffle Rules

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Rules for All Raffles

Conducting a Raffle

230-11-001 "Licensees," "licensee," "organizations," and "organization" defined.

(1) In this chapter, "licensee" and "licensees" means those charitable or nonprofit organizations which we require to be licensed to conduct raffles.

(2) "Organization" and "organizations" means all bona fide charitable or nonprofit organizations conducting unlicensed raffles authorized by RCW 9.46, including those authorized by RCW 9.46.0315 and RCW 9.46.0321.

[Statutory Authority: RCW 9.46.070 (14) and (20).]

230-11-005 Display the raffle license.

Licensees conducting a raffle must prominently display the raffle license or a copy of the license at the site and time of the drawing.

[Statutory Authority: RCW 9.46.070 (14).]

230-11-010 Number tickets consecutively.

All raffle tickets must:

- (1) Be consecutively numbered; or
- (2) Be printed with letters or symbols which do not repeat within the population of all tickets sold for a particular raffle.

[Statutory Authority: RCW 9.46.0277 and RCW 9.46.070 (8), (11) and (14).]

230-11-012 Licensees may conduct a joint raffle.

Raffle licensees may jointly conduct a raffle if:

- (1) Licensees maintain in writing the method by which the income, expenditures for prizes, and all other expenses, received and expended in connection with the raffle will be divided among them; and
- (2) One licensee sets up a separate bank account into which all of the proceeds from the raffle are deposited and from which all of the expenses in connection with the raffle, including but not limited to, all payments for prizes, are made; and
- (3) Participating licensees keep records which clearly disclose the amount of money received or each licensee expends in connection with the raffle and the purpose(s) for which the money was spent; and
- (4) Licensees count all gross receipts that each participating licensee received toward their gross receipts limit.

[Statutory Authority: RCW 9.46.070 (8), (11) and (14).]

Selling Tickets

230-11-015 Provide rules to participants.

At the time of purchase, organizations must inform all participants by either printing on the participant's portion of the ticket or otherwise providing to each participant, in writing, of the following:

- (1) All rules by which prizes may be won in the raffle; and
- (2) The cost of each ticket; and
- (3) All prizes available, whether cash or merchandise; and
- (4) Date, time, and location of drawing; and
- (5) Whether a participant is required to be present at the raffle drawing in order to be eligible to win a prize; and
- (6) Name of the organization conducting the raffle.

[Statutory Authority: RCW 9.46.070 (14) and (20).]

230-11-020 Record information on ticket stub.

If an organization sells raffle tickets to the general public or conducts raffles that do not require the winner to be present at the drawing, the organization must include a stub or other detachable section bearing a number, letter, or symbol matching the number, letter, or symbol on the ticket or object representing the player's ticket. The organization's portion must include the participant's name, complete address, telephone number, and other information necessary to notify the winner.

[Statutory Authority: RCW 9.46.070 (14).]

230-11-025 Bundling and selling tickets at a discount.

(1) Licensees may put tickets together in a bundle and sell them at a discount if they:

- (a) Create the discount plan before selling any raffle tickets; and
- (b) Do not change the discount plan during the raffle; and
- (c) Make single nondiscounted tickets available to all participants; and
- (d) Use only one discount plan for each raffle; and

(2) Booklets of bundled discounted tickets must contain the number of tickets named in the discount plan; and

(3) Licensees must not remove tickets from a booklet to sell them individually; and

(4) Each booklet of bundled tickets must have the following information printed on the cover:

- (a) A description of the discount plan; and
- (b) The number of tickets in the booklet; and
- (c) The total cost of the booklet; and
- (d) A consecutive number; and

(5) Licensees must establish controls and accounting procedures necessary to determine gross gambling receipts from ticket sales.

[Statutory Authority: RCW 9.46.070 (8), (11), and (14).]

230-11-030 Restrictions on ticket sales.

(1) Only members of the organization or volunteers under the supervision of a member may sell tickets; and

(2) Organizations must sell all tickets for a particular raffle for the same price unless offering an authorized discount plan; and

(3) Organizations must not:

- (a) Sell raffle tickets via the internet; or
- (b) Require anyone to purchase more than one raffle ticket; or
- (c) Give away raffle tickets; or
- (d) Give an opportunity to participate in a raffle drawing to a person who has not purchased a ticket.

[Statutory Authority: RCW 9.46.070 (11), (14) and (20); RCW 9.46.0277.]

230-11-035 Incentives for selling tickets.

(1) Organizations must not pay members or volunteers for selling tickets or managing or operating a raffle, unless the person is a full-time or part-time employee of the organization with duties other than selling tickets or managing or operating raffles.

(2) Licensees may provide members or volunteers with noncash incentives for selling tickets if the licensee:

- (a) Bases the incentives on the number of tickets sold; and
- (b) Gives incentives that do not exceed five percent of the gross gambling receipts of the raffle; and
- (c) Maintains a record of the name, address, and telephone number of all persons receiving incentives.

[Statutory Authority: RCW 9.46.0277. RCW 9.46.070 (8), (11), and (14).]

Drawing Tickets

230-11-040 Place ticket stubs in receptacle for drawing.

Each person who sells a raffle ticket must give the organization all ticket stubs or other detachable sections of all tickets sold. The organization must place each stub or other detachable section of each ticket sold into a receptacle from which the organization will draw the winning tickets unless they use one of the authorized alternative drawing formats.

[Statutory Authority: RCW 9.46.0277. RCW 9.46.070 (14) and (20).]

230-11-045 Draw winning tickets randomly.

A "drawing" means a random selection process for determining winners in a raffle. To be random, each ticket in the drawing must have an equal and fair chance of being drawn as a winner. Organizations must design the ticket drawing receptacle so that each ticket has an equal opportunity to be drawn.

[Statutory Authority: RCW 9.46.0277. RCW 9.46.070 (14) and (20).]

230-11-050 Using alternative drawing formats.

Licensees may use alternative drawing formats that randomly determine winners if licensees:

- (1) Fully disclose to each player the random selection process used in the alternative drawing format before selling tickets; and
- (2) Maintain a copy of the disclosure with the permanent raffle records; and
- (3) Use controls and accounting procedures that:
 - (a) Provide the ability to audit gross gambling receipts from ticket sales; and
 - (b) Have sufficient controls to prevent manipulation of the random selection process; and
 - (c) Document the random selection process.

[Statutory Authority: RCW 9.46.070 (8) and (14).]

230-11-055 Authorized alternative drawing formats.

Licensees may use the following types of alternative drawing formats or similar random selection processes:

Mock races.

- (1) The licensee sells participants consecutively numbered tickets that identify a specific corresponding numbered mock animal(s), ball(s), or other similar object(s) that can use natural elements to move the objects (water, gravity, wind) in a race. All objects must be identical in weight, size, and shape, to have an equal opportunity to win. The licensee must release all objects simultaneously at a start line. The first numbered object to cross the finish line wins.

Poker runs.

- (2) The licensee sells participants consecutively numbered tickets or poker tally sheets to participants. Participants travel a predetermined course with predetermined drawing stations (typically five drawing stations). At each drawing station, participants draw one playing card for each ticket purchased. Station attendants must verify the card drawn and record the card value on the poker ticket tally sheet. After all participants have completed the course, the participant with the best recorded poker hand wins.

Ball drops.

- (3) The licensee sells participants consecutively numbered tickets that identify a specific corresponding numbered ball. All balls must be equal in size, weight, and shape, to have an equal opportunity to win. The licensee suspends all purchased numbered balls in the air and simultaneously releases them over a target zone. The ball, closest or first, to hit the predetermined target wins.

Animal plops.

- (4) The licensee sells participants consecutively numbered tickets that identify a specific corresponding square on a numbered grid. The licensee releases the animal into the grid area until the animal has completed its plop. The numbered square containing the plop wins.

Multiple stage drawings.

- (5) The licensee sells participants consecutively numbered tickets. The licensee uses multiple drawing phases to eliminate participants until the licensee declares the remaining ticket holder(s) the winner(s). The licensee may use second element of chance plans as long as the plans meet the criteria set out in WAC 230-11-060.

Bucket raffles.

- (6) The licensee sells participants consecutively numbered tickets. Participants place their tickets into any number of separate buckets or other receptacles for separate prizes. We consider the multiple drawings one single raffle. If licensees use different tickets for each receptacle, we consider each drawing an individual raffle.

Calendar raffles.

- (7) The licensee sells participants consecutively numbered calendars with removable stubs. The licensee places all sold calendar stubs into the drawing receptacle. On predetermined dates identified on the calendar, the licensee conducts drawings. The licensee places all winning stubs back into the drawing receptacle for future drawings.

[Statutory Authority: RCW 9.46.070 (11), (14), and (20).]

230-11-060 Using a second element of chance in an alternative drawing format raffles.

Licensees may use second elements of chance in alternative drawing format raffles to:

- (1) Determine the final prize winner. For example: Ten finalists are drawn and each finalist chooses a key. The finalist with the key that starts the vehicle wins; or
- (2) Determine which prize is awarded among a group of prizes. For example: Each winner selects one of three keys and each wins the contents of the safe which the key unlocks; or

- (3) Increase the prize award. For example: The winning ticket matches a predetermined sequence of numbers and wins an additional prize.

[Statutory Authority: RCW 9.46.070 (11) and (14).]

Prizes

230-11-065 Own prizes for raffles before drawing date.

(1) Organizations must own the prizes offered to winners before the date of the drawing. However, if the winner has an option to receive a cash prize instead of the merchandise, the organization may enter into a contract to purchase the merchandise prize after the winner chooses his or her option. The organization must have the funds to make the purchase on account before the date of the drawing.

(2) At the time and date of any raffle drawing, the organization must have on deposit an unencumbered amount of money that is equal to or greater than all cash prizes being offered in the raffle. The organization must have these funds deposited in the gambling receipts account, if required, or in a recognized Washington state depository authorized to receive funds. The organization must not reduce the balance of funds available from this account below the required amount before awarding the prize(s).

(3) Raffle prizes must:

- (a) Be available at the time and place of the drawing; and
- (b) If cash, be United States currency or an equivalent amount of negotiable instruments; and
- (c) For licensees, not exceed \$40,000 per prize or \$80,000 in total raffle prizes in a license year. The commissioners may vote to permit licensees to exceed these limits on specific occasions if the licensees show good cause in writing.

[Statutory Authority: RCW 9.46.070 (9), (11), and (14).]

Conducting a Members-Only Raffle

230-11-070 Defining "members-only" raffles.

A "members-only raffle" means a raffle where the organization sells tickets only to full and regular members and a limited number of guests. All aspects of the raffle must take place during the same event at the same location. Winners must be determined from among those members and guests that have purchased tickets.

[Statutory Authority: RCW 9.46.0315; RCW 9.46.0321; RCW 9.46.070 (11) and (14).]

230-11-075 Limit number of guests for members-only raffles.

The total number of guests participating in a raffle must not exceed twenty-five percent of the total attendance of the meeting. The organization must maintain records to show compliance with this requirement.

[Statutory Authority: RCW 9.46.070 (8), (11), and (14).]

230-11-080 Post rules of play for members-only raffles.

Organizations must either post a sign at each point where they sell tickets to provide participants with all rules of play or print the rules on the raffle tickets.

[Statutory Authority: RCW 9.46.070 (11) and (14).]

230-11-085 Modified and discounted pricing plans for tickets for members-only raffles.

(1) Licensees may use modified ticket pricing plans at members-only raffles when gross revenues do not exceed five thousand five dollars. An example of a modified pricing plan is a penny raffle. A penny raffle is a raffle where licensees sell five hundred consecutively numbered tickets. Participants randomly choose tickets and pay the consecutive number of the ticket multiplied by a pre-determined cost, for instance, one penny.

(2) In discounted pricing plans, licensees may sell tickets to enter a raffle for different values, not to exceed ten dollars for a single ticket, if the licensee:

- (a) Tells the players the pricing plan before selling them a ticket to participate. The licensee must tell the player the total number of tickets in the population available and the number of tickets at each price level; and
- (b) Allows participants to randomly select their ticket from the population of remaining tickets and pay the amount printed on the ticket they select; and

- (c) Establishes records for an adequate audit trail to determine gross gambling receipts; and
- (d) Holds no more than two such drawings during a meeting or event; and
- (e) Sells multiple tickets to enter one or more drawings as a package and the total price of the package does not exceed twenty-five dollars.

(3) Licensees may include tickets to enter a raffle as a part of a package that includes dues, entertainment, or other fund-raising activities if:

- (a) The licensee discloses the value of each component of the package to the purchaser; and
- (b) The value of each individual raffle ticket does not exceed twenty-five dollars.

(4) The licensee must not include tickets to enter raffles or to participate in any gambling activities with applications for membership or as part of membership fees.

(5) Licensees may sell tickets for a discounted price based on the number of tickets a player purchases if:

- (a) The amount of the discount is set before any raffle tickets are sold; and
- (b) Participants are allowed to purchase a single ticket; and
- (c) There is only one discount plan for each raffle; and
- (d) The cost of a single ticket, without a discount, does not exceed ten dollars; and
- (e) The total cost of a discount package does not exceed twenty-five dollars; and
- (f) The cost of a single ticket is printed on each ticket (for example, one dollar each); and
- (g) The discounted tickets are identified by a unique ticket audit numbering system; and
- (h) The licensee establishes an audit system that includes internal controls and procedures to determine gross gambling receipts from the sale of tickets using a modified pricing plan.

[Statutory Authority: RCW 9.46.070 (8), (11) and (14).]

230-11-090 Authorized alternative drawing formats for members-only raffles.

Licensees may use alternative drawing formats set forth in WAC 230-11-055 for members-only raffles as long as the licensee meets all requirements set out in that rule. Licensees also may use the following alternative drawing formats or similar random selection processes for members-only raffles:

Mock animal races.

- (1) The licensee sells participants consecutively numbered tickets to participants to wager on a specific mock animal in a field of mock animal racers, typically five to ten racers. The mock animals race in individual lanes divided into equal spaces or squares; for example, bingo boards are sometimes used as race lanes. Animals move forward based on the numbers rolled on dice or balls drawn from a set of bingo balls. The first mock animal to cross the finish line is the winner. All winning ticket holders split the prize pool or the licensee may hold a drawing of winning tickets to determine a single winner.

Video races.

- (2) The licensee sells consecutively numbered tickets/race forms to participants to wager on the outcome of an unknown videotaped race, typically horse races. The previously-taped races must be obtained from an outside source and participants must have no knowledge of the specific race outcome before conducting the video race drawing. Participants wager on the specific racers, identified by numbers, or a specific race lane. All participants holding a winning race number ticket or winning lane number ticket are the winners. All winning ticket holders split the prize pool or the licensee may hold a drawing of winning tickets to determine a single winner.

Paddle wheel raffles.

- (3) The licensee sells numbered paddles or numbered tickets to participants that correspond to numbered spaces on a balanced, spinning wheel. The licensee spins the wheel at least one full revolution. The ticket that matches the number that the wheel stops on is the winning ticket.

Card deck raffle

- (4) The licensee sells a single playing card or similar object to participants. The card is then torn or cut in half and one half is placed in the drawing receptacle. The participant holds the other half until the drawing takes place. The holder of the matching half to that drawn is the winner.

[Statutory Authority: RCW 9.46.070(11) and (14).]

Recordkeeping for Raffles

230-11-095 Recordkeeping requirements for Class A through D licensees and unlicensed raffles.

Class A through D licensed raffles and unlicensed raffles authorized by RCW 9.46.0315 or 9.46.0321 must keep a record by month of the following:

- (1) Gross receipts; and
- (2) Prizes paid; and
- (3) Net income; and
- (4) Documentation of expenses; and
- (5) Documentation of how the proceeds were used.

[Statutory Authority: RCW 9.46.0315; RCW 9.46.0321; RCW 9.46.070 (8), (11), and (14).]

230-11-100 Recordkeeping requirements for Class E and F licensees and raffles using alternative drawing formats.

Licensees conducting Class E or Class F raffles or conducting raffles using alternative drawing formats must prepare a detailed record for each raffle they conduct. Licensees must:

- (1) Record all data required in the standard format we provide; and
- (2) Maintain the following:
 - (a) Validated deposit receipts for each deposit of raffle proceeds; and
 - (b) All winning tickets; and
 - (c) The name, address, and telephone number of all winners of a prize with a fair market value of more than fifty dollars; and
 - (d) All ticket stubs for raffles that do not require participants to be present at the drawing; and
 - (e) All unsold tickets for individual raffles for which gross gambling receipts exceed five thousand dollars; and
 - (f) Invoices and other documentation recording the purchase or receipt of prizes; and
 - (g) Invoices and other documentation recording the purchase of tickets and other expenses of the raffle; and
- (3) Complete all records no later than thirty days following the drawing.

[Statutory Authority: RCW 9.46.070 (8), (11), and (14).]

230-11-105 Retain and store raffle records.

- (1) Records for unlicensed raffles must be kept for one year following the date of the raffle drawing.

- (2) Records for licensed raffles must be kept for three years from the end of the licensees' fiscal year in which the raffle was completed.
- (3) Organizations must keep all records at the main administrative or business office of all organizations that are located in Washington and have the records available for our review or audit.
- (4) Organizations that do not have an administrative or business office must have and designate a records custodian that resides in Washington.
- (5) We may allow an organization to maintain records outside the state of Washington if the organization submits a written request. We may withdraw this permission at any time.

[Statutory Authority: RCW 9.46.130; RCW 9.46.070 (8), (11), and (14).]